



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4220 OF 2023

Sau. Girjabai W/o Walmik Katkade,
Age: 75 Years, Occup: Household,
R/o: Katkarwadi, Ta. Gangakhed,
District Parbhani

Through Power of Attorney Holder
Mr. Walmik S/o Eknath Katkade
Age: 77 Years, Occup: Agril.,
R/o: Katkarwadi, Ta. Gangakhed,
District parbhani

...PETITIONER

VERSUS

1. Muktum S/o Sopan Katkade,
Age: 80 Years, Occup: Household,
R/o: Katkarwadi, Ta. Gangakhed,
District Parbhani

Through Power of Attorney Holder
Mr. Namdeo S/o Muktum Katkade
Age: 54 Years, Occup: Agril.,
R/o: Katkarwadi, Ta. Gangakhed,
District Parbhani

2. Registrar General (Money Lenders)Va
Special Registrar, Co-operative Societies,
Maharashtra State, Pune
3. The Divisional Joint Registrar (Money Lenders)
@ Divisional Joint Registrar,
Co-Operative Societies, Aurangabad
Division, Aurangabad
4. The District Joint Registrar (Money Lenders)
@ District Joint Registrar,
Co-Operative Societies, Parbhani
District Parbhani

...RESPONDENTS

Mr. Akash Rodge h/f. Mr. Mahesh Kale, Advocate for the Petitioner
Mr. S. N. Kendre, AGP for Respondent Nos.3 and 4 – State
Mr. Yogesh K. Bobade, Advocate for Respondent No.1

CORAM : AJIT B. KADETHANKAR, J.
RESERVED DATE : 31.08.2026
PRONOUNCED DATE: 02.09.2026

JUDGMENT :-

. Feeling aggrieved by the judgment and order dated 08.01.2023 passed by the Registrar (General) / Additional Commissioner and Special Registrar, Co-operative Societies, Maharashtra State, Pune in Revision No.73 of 2019, the Petitioner has filed the present petition.

2. Rule. Rule made returnable forthwith. Considering the short controversy involved in the petition, I heard learned Advocates for the respective parties for final disposal.

3. Facts in Brief :

(a) On 19.05.2003, Respondent No.1/original complainant executed a registered sale deed bearing No.2098 of 2003 in favour of the Petitioner in respect of agricultural land admeasuring 28 R out of Gat No.164 situated at Mouje Katarwadi Post Badavani Taluka Gangakhed District Parbhani for valuable consideration.

(b) The Respondent No.1 thereafter filed Complaint/Appeal No.25 of 2016 before the District Registrar under the provisions of the Maharashtra Money-Lending (Regulation) Act, 2014 (for brevity, “the Act”) for taking action against the Petitioner.

(c) In nutshell, it was alleged that since the complainant was facing financial difficulties, he executed the registered sale deed bearing No.2098 of 2003 in favour of the present Petitioner against the money lent by the Petitioner to him.

(d) It was further contended that the transaction was not a sale transaction in toto, however, it was a conditional sale transaction. Subsequently, the Petitioner started cultivating the said agricultural land under the garb of the sale deed and therefore, the complainant realised that the Petitioner had taken undue advantage of the alleged sham sale deed.

(e) The complainant further alleged that the Petitioner was involved in the business of illegal money-lending and had got a number of sale deeds executed by conducting such business. Therefore, the complaint came to be filed and action was sought against the Petitioner.

(f) The authority issued notice to the Petitioner and conducted an enquiry corresponding to Section 18(1) of the Act and Rule 17 framed thereunder. Accordingly, a report came to be submitted by the designated Enquiry Officer

@ the Co-operative Officer, Class-I.

(g) The record revealed that no money-lending transaction could be seen to have occurred between the parties. The parties were given an opportunity to place their respective contentions on record and to make submissions with regard to the enquiry report produced before the authority.

(h) At the conclusion of the enquiry, the concerned authority opined that the complainant could not prove the allegations against the present Petitioner nor was it revealed in the enquiry that there was any element of illegal money-lending involved in the subject matter transaction between the Petitioner and the Respondent No.1. As such, the complaint came to be dismissed on 23.08.2016.

(i) The Respondent No.1 carried the said order in Appeal No.6 of 2017 before the Divisional Assistant Registrar, Co-operative Societies, Aurangabad. The First Appellate Authority heard the parties, re-assessed the evidence and arrived at the conclusion that the complainant could not establish the contents of the complaint. Resultantly, the appeal came to be dismissed vide order dated 28.05.2018.

(j) It appears that Respondent No.1 thereafter preferred Writ Petition No.11396 of 2018 before this Court. However, recording that there was a statutory remedy available under Section 9 of the Maharashtra Money-

Lending (Regulation) Act, 2014, the petition was permitted to be withdrawn to enable Respondent No.1 to exhaust the said remedy by filing a revision.

(k) Accordingly, Respondent No.1 filed Revision No.73 of 2019 before the Registrar (General) / Additional Commissioner and Special Registrar, Co-operation, Maharashtra State, Pune.

(l) The Revisional Authority heard the parties. However, observing that the complainant could not get an adequate opportunity of hearing, the revision application was partly allowed. Both the orders passed by the authorities below were quashed and set aside and the matter was remitted to the Appellate Authority for re-hearing. The said order dated 08.01.2023 is impugned in the present petition.

4. Submissions :

Per Mr. Akash Rodge h/f. Mr. Mahesh Kale, learned Advocate for the Petitioner:

(a) Learned Advocate for the Petitioner would submit that both the authorities namely the first authority as well as the Appellate Authority have assessed the evidence available on record. The Respondent No.1 failed to prove the factum of money-lending at the hands of the Petitioner.

(b) It was never the case of Respondent No.1 that anything prevented him from producing evidence in support of his case. Therefore, the Revisional Authority was not justified in observing that the Respondent No.1 was not given a full and adequate opportunity of hearing. Hence it is submitted that the writ petition deserves to be allowed.

Per Mr. Yogesh K. Bobade, learned Advocate for Respondent No.1 :

(a) Learned Advocate for the complainant/Respondent No.1 would rely upon the reply affidavit. His main thrust of the argument is that there were several instances indicating that the Petitioner was involved in illegal money-lending transactions.

(b) He would submit that the Petitioner was in fact engaged in illegal money-lending transactions and that the documents placed on record would themselves demonstrate the involvement of the Petitioner in such transactions. It is further submitted that the enquiry report referred to in the order passed against him was never supplied to the complainant nor the documents showing illegal money-lending transaction by the Petitioner are considered by the authorities.

(c) He would further submit that, in view of the above circumstances, the principles of natural justice were not followed and the complainant must be given an opportunity to prove his contentions.

Per Mr. S. N. Kendre, learned Assistant Government Pleader for Respondent Nos.2 to 4 :

(a) Under the directions of this Court, learned Assistant Government Pleader has filed reply affidavit on behalf of Respondent Nos.2 to 4 under the signature of Ms. Surekha Eknath Phupate serving as District Deputy Registrar, Co-operative Societies, Hingoli.

(b) The contention of the complainant are denied that no opportunity of hearing was offered to him. It is also denied that copies of any document or report was not served upon the complainant. However, the reply affidavit supports the order passed by the Revisional Authority. It is submitted that Respondent No.4 would re-open the matter and conclude the hearing within the stipulated time.

5. Consideration :

(a) I have heard the learned Advocates for the respective parties as also the learned Assistant Government Pleader at length.

(b) The complaint was filed by Respondent No.1. It was for Respondent No.1 to prove his complaint by producing on record such documents in respect of his complaint which will show that the Petitioner was involved in the business of illegal money-lending.

(c) The first authority has categorically observed that a full opportunity of hearing was given to the complainant and an enquiry was conducted, the report of which was made available to the complainant. There was nothing on record even remotely indicating that the sale deed was not a sale deed in toto, but was a conditional sale deed. There was also nothing on record to show that the complainant had repaid the entire amount of the sale consideration together with interest to the Petitioner and thereafter requested him to revert back the loan in his favour. Observing the aforesaid circumstances, the first authority rejected the complaint.

(d) Needless to record, the first authority further observed that the copy of the sale deed produced by the complainant did not contain the name of the Petitioner therein. On this count, the Appellate Authority also declined to rely upon the said sale deed.

(e) So far as the alleged violation of the principles of natural justice is concerned, the Appellate Authority recorded that the record showed that every opportunity of hearing was given to the complainant. There was nothing to indicate that any document or report was not served upon the complainant.

(f) The Appellate Authority recorded its findings after re-assessing the evidence on the basis of which the original order was passed. Pertinently, even before the First Appellate Authority, the complainant did not adduce any

independent evidence in support of the allegations contained in the complaint and on which in the present petition, Respondent No.1 seeks to place reliance.

(g) In the revision petition, the Revisional Authority remitted the matter to the Appellate Authority only on the ground that there was no cross-examination of the witnesses to the registered sale deed. Respondent No.1 is a carrier of the litigation. The entire burden is on him to prove his complaint.

(h) So far as the documents on which reliance was placed are concerned, it was for Respondent No.1 to prove the same by examining appropriate and cogent witnesses. It is not the case that Respondent No.1 had ever applied for summoning or cross-examining the witnesses to the sale deed and such opportunity was denied to him.

(i) In the absence of any such application or request from Respondent No.1, the authorities were not expected to call any person as a witness and examine such person for the purpose of proving the case of Respondent No.1. The failure on the part of Respondent No.1 to take appropriate steps to prove his case cannot be treated as a reason to remand the matter for a fresh exercise of hearing.

(j) Respondent No.1 cannot be permitted to take advantage of his own wrong. Much thrust is given by the learned Advocate for Respondent No.1 on the contention that the enquiry report was not supplied to the complainant.

However, the recitals in the orders passed by the first authority as well as the Appellate Authority show that the complainant was made aware of the said report and was afforded an opportunity to deal with the same.

(k) It appears that Respondent No.1 had ample opportunity to prove his complaint. The best course available to Respondent No.1 was to produce on record affidavits of those persons who were parties to the sale deeds in respect of which allegations of illegal money-lending were made against the Petitioner. No such exercise was undertaken.

(l) Secondly, so far as the sale deed executed between the Petitioner and Respondent No.1 is concerned, apparently there is nothing to indicate that it was a transaction of illegal money-lending.

(m) Thirdly, nothing prevented Respondent No.1 from filing an application before any of the authorities for summoning the witnesses to the sale deeds for the purpose of proving the factum of alleged illegal money-lending at the hands of the Petitioner.

(n) It is also necessary to consider the sale deeds relied upon by Respondent No.1 to demonstrate the alleged involvement of the Petitioner in illegal money-lending transactions.

(o) Sale deed bearing No.1842 of 1998 dated 30.04.1998 registered before the Sub-Registrar, Gangakhed is relied upon by Respondent No.1 to show an instance of an alleged illegal money-lending transaction. However, the name of the present Petitioner does not appear as a vendee therein and the name of one Laxmibai is shown as the vendee. Thereafter, another sale deed bearing No.1238 of 1999 registered on 05.04.1999 before the Sub-Registrar, Gangakhed is also placed before this Court. The said document also shows a vendee other than the present Petitioner.

(p) Another sale deed bearing No.1515 of 2000 is also placed before this Court, wherein the Petitioner's name does not appear in any capacity. The same is the position in respect of the sale deed bearing No.2680 of 2004 dated 04.06.2004 wherein also the name of the Petitioner is absent. Similarly, in respect of the sale deed bearing No.1246 of 2007 as well as the sale deed bearing No.2354 of 2018 the name of the Petitioner does not appear.

(q) Thus, even upon considering the sale deeds on which Respondent No.1 has placed reliance to demonstrate the alleged illegal money-lending transactions at the hands of the Petitioner, it does not appear that the Petitioner was a party to those transactions. It is contended by the complainant that the vendee named Laxmibai in those instruments and the present Petitioner are one and the same person. However, there is nothing on record to accept such a bare contention. Even otherwise, none of the

documents relied upon by Respondent No.1 as observed above show that the Petitioner was involved in any illegal money-lending transaction.

(r) In view of the above, the finding of the Revisional Authority that the complainant was not given an opportunity of hearing appears to be misconceived. In the circumstances, I am convinced that the Petitioner has made out a successful case for interference by this Court. I agree with the submissions advanced by Mr. Rodge, learned Advocate for the Petitioner that the re-hearing as is ordered by the Revisional Authority before the First Appellate Authority would amount to nothing but an unnecessary re-opening of the proceedings and an abuse of the process.

(s) In the given circumstances, and since the matter pertains to allegations of illegal money-lending, I have cautiously examined the findings recorded by the first authority as well as by the Appellate Authority. I find that the impugned order is not justifiable for the reasons recorded therein.

6. Hence I pass following order :

ORDER

- I. The Writ Petition is allowed.
- II. The impugned judgment and order dated 08.01.2023 passed by the learned Registrar (General) / Additional Commissioner and Special Registrar, Co-operative Societies,

Maharashtra State, Pune, in Revision No.73 of 2019

(Exhibit-J), is quashed and set aside.

III. Consequently, the order dated 28.05.2018 passed by the First Appellate Authority stands restored.

IV. Rule is made absolute in the above terms.

[AJIT B. KADETHANKAR, J.]

PRW