

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.5018 OF 2012

1. Gangubai Motilal Baviskar
(Koli), Age 60 years,
Occu.Household
2. Devraj Motilal Baviskar (Koli),
Age 28 years, Occu. Labour
3. Purushottam Motilal Baviskar
(Koli), Age 34 years,
Occup. Private service
4. Ishwar Motilal Baviskar (Koli),
Age 30 years, Occu. Private service
5. Madhukar Motilal Baviskar (Koli),
Age 39 years, Occu. Labour

R/o Wani Galli, Kanchan Nagar,
Jalgaon, Taluka and Dist. Jalgaon

.. Petitioners

Versus

1. The State of Maharashtra,
through its Secretary,
Co-operative Department,
Mantralaya, Mumbai 32
2. The Commissioner of
Co-operation, Central
Administrative Building
Pune at Pune
3. The Divisional Joint Registrar,
Co-operative Societies, Nashik
Division nashik
4. The District Deputy Registrar,
Co-operative Societies,
Jalgaon at Jalgaon
5. The Deputy Registrar,
Co-operative Societies,
Jalgaon Taluka Jalgaon
At Jalgaon, Dist. Jalgaon

6. The District Collector,
Jalgaon at Jalgaon
 7. The Sub-Registrar,
Dharangaon, Dist. Jalgaon
 8. The Tahsildar,
Chopda, Dist. Jalgaon
 9. The Talathi,
Chahardi, Taluka Chopda,
District Jalgaon
 10. Purnavad Nagari Sahakari
Pat Sanstha Maryadit,
Shirsoli, Taluka and Distirct
Jalgaon
through its Manager
 11. Purnavad Nagari Sahakari
pat Sanstha Maryadit,
Shirsoli, Taluka and Dist.Jalgaon
through its Special Recover and
Sales Officer appointed by
The Maharashtra State
 12. Aadhar Kashinath Salunkhe,
Age Major, Occu. Business,
R/o 336/2, Bambhori,
Taluka Dharangaon,
District Jalgaon
 13. Rahul Shantaram Sonawane,
Age Major, Occu. Business,
R/o 16, L.I.C. Colony,
Jalgaon, District Jalgaon
 14. Surendra Moreshwar Patil,
Age Major, Occu. Business,
R/o Maroti Peth, Jalgaon
District Jalgaon
- ..Respondents

Mr D.B. Thoke, Advocate for petitioners
 Mr R.P. Phatke,A.G.P. for respondents No.1 to 9
 Mr B.S. Deshmukh, Advocate for respondent No.12

CORAM : N.W. SAMBRE, J.

DATE : 27th April 2015

PER COURT

Heard Mr Thoke at length.

2. The submission made by Mr Thoke is that the auction of petitioners' property pursuant to auction notice dated 2nd May 2012 issued by respondents No.10 and 11 be set aside.

3. The cause for the auction is the status of father of present petitioners No.2 to 5 as a guarantor by virtue of registered deed executed before the Registrar, which according to petitioners is titled as mortgage deed 14th October 2005 registered with the office of Sub-Registrar, Dharangaon, District Jalgaon. According to petitioners, the document mortgage deed dated 14th October 2005 registered with the Sub-Registrar, Erandol was executed by playing fraud, as according to him, the said mortgage/deed contains forged signature of father of the petitioners and his thumb impression.

4. According to learned Counsel for the petitioners, in view of the fact that in original application of loan since petitioners' father was neither shown as borrower nor guarantor, the adjudication of liability and auction of their property is not sustainable.

5. If the contention of the petitioners is to be accepted, it is required to be noted that the petitioners have an alternate remedy of challenging the said proceedings before the competent authorities under the provisions of Co-operative Societies Act. Apart from above, the fact remains that the petitioners though have questioned the genuineness of the mortgage deed in this petition, however, have not

taken any steps for questioning the same before the competent civil Court. What is done by the petitioners is initiation of criminal proceedings against Bank officers and borrower in relation to the said deed of mortgage.

6. It is reported by the Counsel for respondent No.12 that petitioners have already taken recourse to revision which is pending before the competent authority.

7. In view of above, in my opinion, no case for interference is made out. Petition stands dismissed.

(N.W. SAMBRE, J.)

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