

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.5685/2011

Sayaji Tukaram Kanwade.

...Petitioner..

Versus

The Deputy Registrar
For Cooperative Society,
Sangamner Tq.Sangamner
& another.

...Respondents...

.....

Shri S.K. Shinde, Advocate for petitioner.

Shri K.J. Ghute Patil, AGP for respondent no.1.

Shri V.Y. Bhide, Advocate for respondent no.2.

.....

**CORAM: MOHIT S. SHAH, CJ &
T.V. NALAWADE, J.**

DATE: 28.08.2015

ORDER :

1] Heard learned counsel for the parties.

2] This writ petition is filed for relief of quashing and setting aside the Proceeding No.201/2011 presently pending before the Deputy Registrar, Cooperative Societies, Sangamner, for getting certificate u/s 101 of the Maharashtra Cooperative Societies Act, 1960. Another relief is claimed for giving direction to the authority

- 2 -

to allow the present petitioner to call the witnesses under witness summons and the witnesses will be the Manager and the Chairman of the cooperative credit society.

3] The learned counsel for the petitioner submitted that a notice was issued to him as provided u/s 138 of the Negotiable Instruments Act, 1881 and in that notice, the demand of Rs.50,000/- was made, which was the cheque amount and this amount was subsequently paid before filing of criminal case u/s 138 of the Negotiable Instruments Act, 1881. It is submitted that on the basis of this circumstance, the petitioner came to be acquitted in the criminal case. It is submitted that after the acquittal, the present proceeding is started by the society for getting certificate u/s 101 of the Maharashtra Cooperative Societies Act, 1960. It is submitted that the petitioner wanted to prove that he has already repaid the amount and he has produced copy of the receipt in that regard. It is submitted that in view of these circumstances, the authority ought to have allowed the petitioner to get witness summons and call the witnesses like the Manager and the Chairman of the

- 3 -

cooperative credit society. It is submitted that as such order is not made and as the aforesaid proceeding is started even after making the payment of the amount due, the reliefs are claimed.

4] The learned counsel for the cooperative credit society brought to the attention of this Court the circumstances like in the account extract, the amount which was deposited with the credit society after issuing the notice for starting the proceeding under the Negotiable Instruments Act, is shown. It is submitted that the proceeding for getting the certificate u/s 101 of the Maharashtra Cooperative Societies Act, 1960, is summary in nature and it needs to be decided on the basis of the documents produced and the affidavits filed, if any, in support of the documents. It is submitted that in view of these circumstances, the authority has rightly rejected the application made for issuing the witness summons.

5] It appears that in addition to the aforesaid amount of Rs.50,000/-, the society is claiming more amount which is due against the present petitioner. The authority has the power to decide this point. For that, the proceeding

- 4 -

is started. This Court sees no reason to interfere with the order made by the authority. It is not possible to quash and set aside the proceeding.

6] In the result, the writ petition is dismissed. There shall be no order as to costs.

(T.V. NALAWADE, J.)

CHIEF JUSTICE