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

APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.: 1779 OF 2012

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Sau. Shaikh Hasina Nuruddin,
Age: Major, Occu: Byusiness,
R/o Rahuri, Taluka Rahuri,
District: Ahmednagar. ... **PETITIONER**

VERSUS

1. **The Assistant Registrar,**
Cooperative Societies,
Rahuri, Taluka Rahuri,
District Ahmednagar.

2. **Manager Raosaheb Patwardhan Nagari**
Sahakari Pat. Mdt., Branch Rahuri,
Taluka Rahuri, District Ahmednagar.

3. **Nuruddin Ajimuddin Shaikh,**
Age: Major, Occu: Service,
R/o: Rahuri, Taluka Rahuri,
District Ahmednagar.

4. **Sadashiv babulal Pawar,**
Age: Major, Occu: Service,]
R/o: Rahuri, Taluka Rahuri,
District Ahmednagar. ... **RESPONDENTS**

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Mr. Uvraj V. Kakade, Advocate for the Petitioner.
Mr. D. R. Kale, G.P. for Respondent No.1.
Mr. R. R. Karpe, Advocate for Respondent No.2.

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CORAM:- N. W. SAMBRE, J.
DATED:- 20th APRIL, 2015.

ORAL ORDER:

1. The Petitioner, in a dispute for rendition of account and injunction, bearing Case No.ABN-183 of 2009, suffered an order of 3rd August, 2010 passed by the Cooperative Court, Shrirampur, District Ahmednagar wherein a declaration is given against the Petitioner that an amount of Rs.3,74,030/- was outstanding in the loan account of the disputant and also interest at the rate of 15% p.a. with effect from 1st July, 2010. An appeal by the present petitioner before the Cooperate Appellate Court suffered same fate and the Cooperative Appellate Court dismissed the appeal of the petitioner by order dated 18th July, 2011. As such the present petition.

2. The learned counsel for the petitioner would urge that the account, as is maintained by the Respondent bank, if perused, it would be noted that the compound interest is calculated at the rate of 15% p.a. In addition to above, he

would urge that the amount that was repaid by the petitioner was not taken into account by both the courts below i.e. the Cooperative Court and the Cooperate Appellate Court. As such, according to him, both the orders needs to be quashed and set aside by remanding the matter back to the Cooperative Court for appropriate calculation and passing of fresh decree for giving accounts of the loan account of the petitioner. If the order passed by the Cooperative Court is perused, it is noted by the Cooperative Court that the loan was advanced to the present petitioner in 2001. The loan account of the petitioner as on 31st March, 2004 was having an outstanding balance of Rs.2,46,321/-. The petitioner, thereafter, repaid amount of Rs.50,122/-, Rs.50,000/-, Rs.1,500/-, Rs.10,000/-, Rs.50,000/- as on 30th March, 2005, 27th August, 2009, 1st October, 2009 and 13th April, 2010 respectively. The Cooperative Court, while going into the entire details of the claim made, has noticed that after deducting the above referred repayments as on 30th June, 2010 an amount of Rs.3,74,030/- was outstanding against the present petitioner.

3. The claim for settlement under O.T.S. scheme was

also remained unfruitful. The Cooperative Appellate Court, while dealing with the appeal, after appreciating the above referred calculations, looked into by the Cooperative Court, has taken into account the prevailing rate of interest at the relevant time, the documents executed by the petitioner, such a promissory note etc. and has proceeded to dismiss the appeal.

4. Having gone through the observations of both the Courts and in the light of the submissions made by the present petitioner, it is noticed that the Cooperative Court has taken into account the entire repayment made by the petitioner as on date. The Cooperative Court instead of agreed rate of interest between the parties of 21% p.a. has reduced the same to 15% p.a. The Cooperative Court was alive of the fact about the date of loan taken, repayments made from time to time, and the amount outstanding. The said adjudication is based on the loan documents, the pleadings and the evidence brought before it. Once the said authority has already appreciated that the loan transaction was not taken to its logical end by the petitioner and there was substantial amount outstanding, in my opinion, it will not be appropriate to exercise writ

jurisdiction to re-appreciate the entire loan account. No material perversity or illegality is noticed. The petition lacks merits, stands dismissed.

[N. W. SAMBRE, J.]

Dated:20/03/2015.
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