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

WRIT PETITION NO.11792 OF 2014

Abhay Kumar Sudhakar Kale. ..Petitioner

-Versus-

The State of Maharashtra and others. ..Respondents

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Mr.N.R.Thorat, Advocate h/f Mr.Arvind Tiwari, Advocate, for the
Petitioner.

Mr.V.G.Shelke, AGP, for the Respondent Nos.1 and 2/State.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 14th January, 2015

Per Court:

1 The Petitioner, in his prayer clause below paragraph 18 of the petition, has prayed for quashing and setting aside the recovery certificate dated 03.10.2005 issued by the Respondent No.2 under Section 101 of the Maharashtra Cooperative Societies Act, 1960 in Case No.170/2005. The Petitioner has also prayed for quashing and setting aside the orders of attachment of salary dated 15.03.2008 and 10.09.2012. This Writ Petition has been filed on 14.12.2014.

2 The grievance of the Petitioner is that he had applied for loan to the Respondent No.3- Tapi Sahakari Pathpedhi Limited, Chopada for an amount of Rs.4,40,000/-. The said amount was sanctioned as loan and an

amount of Rs.3 lacs was transferred to the account of the Petitioner. On the very next day of disbursing of the loan amount of Rs.3 lacs, the father of the Chairman of the Respondent No.3 Society has withdrawn Rs.1,70,000/- surreptitiously from the account of the Petitioner. A criminal case was preferred against him under Sections 406 and 420 of the Indian Penal Code before the learned Judicial Magistrate First Class, Chopada. The same has been dismissed in default.

3 The Petitioner submits that the recovery certificate dated 03.10.2005 is for an amount of Rs.6,77,150/- as on 03.10.2005. The Petitioner was not given an opportunity to participate in the said proceedings. The said proceedings were conducted and concluded behind the Petitioner. The Respondent No.3 Society has played fraud upon the Petitioner. There is a serious dispute as regards the loan amount sanctioned and actually disbursed to the Petitioner. It is, therefore, submitted that the recovery certificate dated 03.10.2005 and the orders of attachment of salary dated 15.03.2008 and 10.09.2012 be quashed and set aside.

4 Having heard the learned counsel appearing for the Petitioner, I have gone through the petition paper book with his assistance. The Petitioner is the Development Officer in the Life Insurance Corporation of

India. It is conceded that not a single penny has been repaid by the Petitioner pursuant to obtaining of the loan. While submitting the loan application and documents, the Petitioner has stated his address for correspondence. He has later on shifted to Nashik. He has not informed the Respondent No.3 about the change of address and his new address. In my view, it was the duty of the Petitioner to intimate to the Respondent No.3 his changed address.

5 The notices of hearing in Section 101 proceedings were sought to be served upon the Petitioner on his address mentioned in the loan application papers. Naturally, the said notices/documents could not be served upon him since he has changed his address. Had the Petitioner discharged his duty by submitting a new address to the Respondent No.3, the Respondents would have been able to serve the Petitioner with notices. At the same time, it would have disclosed the bonafides of the Petitioner.

6 The Petitioner has a statutory remedy available under Section 154 r/w Section 2A of the Maharashtra Cooperative Societies Act, 1960 by way of preferring a revision application for challenging the impugned certificate under Section 101 dated 03.10.2005. All the contentions raised by the Petitioner as regards the loan amount can be considered in the said

proceedings.

7 I find, from the pleadings of the Petitioner in this Writ Petition, that he has not disclosed the reasons as to why the Petitioner prefers to challenge the certificate under Section 101 directly in this Court. The Petitioner has mentioned his old address, which was supplied to the Respondent No.3 while obtaining the loan, in the cause title of this petition. This address appears to be the permanent address of the Petitioner.

8 Taking an overall view of the facts as recorded above, I do not find that this is a fit case for invoking my writ jurisdiction. The Writ Petition being devoid of merit is, therefore, dismissed. No order as to costs.

(RAVINDRA V. GHUGE, J.)