

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

**REVIEW APPLICATION NO.246 OF 2010
IN
LETTERS PATENT APPEAL NO.209 OF 2009**

Ravindra s/o Prabhakar Kulkarni
died through L.Rs.

- 1) Jyotsna w/o Ravindra Kulkarni,
Age-40 years, Occu:Household,
R/o-Adarsha Colony, Behind Datta
Mandir, Old Ausa Road, Latur,
- 2) Nikhil s/o Ravindra Kulkarni
Age-17 years, Occu:Education,
Under Guardianship of real mother
i.e. Applicant No.1
- 3) Shailaja w/o Prabhakar Kulkarni,
Died through L.Rs.
- 3A) Waman Prabhakar Kulkarni,
Age-54 years, Occu:Service,
R/o-Shakambari Niwas, Behind Datta Mandir,
Old Ausa Road, Latur,
- 3B) Sudhir s/o Prabhakararrao Kulkarni,
Age-48 years, Occu:Service,
R/o-Shakambari Niwas, Behind Datta Mandir,
Old Ausa Road, Latur.

...APPLICANTS

VERSUS

- 1) Maharashtra Nagari Sahakari Bank Ltd.,
Latur Market Yard Branch,
Through it's Branch Manager,
Head Office, Kavva Road,
Near Shivneri Gate, Latur,
Tq. & Dist-Latur,
- 2) The Special Recovery & Sales Officer,
The Maharashtra Nagari Sahakari
Bank Ltd., Latur Market Yard Branch,
Head Office, Kavva Road,
Near Shivneri Gate, Latur,
Tq. & Dist-Latur,
- 3) The State of Maharashtra,
Through it's Principal Secretary,
Department of Cooperation,
M.S. Mantralaya, Mumbai-32,
- 4) The Divisional Joint Registrar,
Co-operative Societies, Latur,
- 5) The Assistant Registrar,
Co-operative Societies,
Tq-Latur, Dist-Latur.

...RESPONDENTS

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Mr.H.A. Joshi Advocate for Applicants.
Mr.Sachin Deshmukh Advocate for Respondent
Nos.1 and 2.
Mrs. A.V. Gondhalekar, A.G.P. for Respondent
Nos.3 to 5.

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**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 15TH DECEMBER, 2015

ORDER :

1. The Applicants are seeking review of the order passed by the Division Bench of this Court in Letters Patent Appeal No.209 of 2009, decided on 29th October 2010.

2. The Appellants in the Letters Patent Appeal, raised challenge to the order dated 8th September 2009 passed by the learned Single Judge in Writ Petition No.2957 of 2009 granting Rule and stay to the implementation and operation of the recovery certificate dated 21st February 2009 issued by the Assistant Registrar, Co-operative Societies, Latur under Section 101 of the Maharashtra Co-operative Societies Act. In Paragraph No.9 of the Judgment dated 29th October 2010, the Division Bench has observed that the impugned order dated 8th September 2009 passed by the learned Single Judge granting interim relief, deserves to be quashed and set aside. Further,

while disposing of the Letters Patent Appeal, in Paragraph No.16 of the Judgment also, it is reiterated that the impugned order dated 8th September 2009 passed by the learned Single Judge granting interim relief, deserves to be quashed and set aside. However, while issuing final order, in Paragraph No.18 of the Judgment, it is recorded that the order dated 8th September 2009 passed by the learned Single Judge in Writ Petition No.2957 of 2009 is quashed and set aside. Due to failure of the Division Bench to clarify that only the interim order is quashed and set aside and not order granting Rule by the learned Single Judge, the Writ Petition pending before the learned Single Judge itself is presumed to have been disposed of.

3. However, considering the text of the order of the Division Bench, it does not appear that the intention of the Division Bench was to set aside the order passed by the learned Single

Judge granting Rule in the Writ Petition. There appears to be some inadvertent error in failure of the Division Bench to mention that the order passed by the learned Single Judge granting Rule in the Writ Petition deserves to be maintained.

4. In view of the reasons recorded above, it needs to be clarified that Writ Petition No.2957 of 2009 pending before the learned Single Judge shall have to be considered on merits and that the order granting Rule in the said Writ Petition shall not be considered to have been set aside by virtue of the order passed by the Division Bench in Letters Patent Appeal No.209 of 2009, decided on 29th October 2010 and that the only order granting interim relief is quashed and set aside by virtue of the aforesaid order passed by the Division Bench.

5. With the clarification as above, Review Application stands disposed of.

6. It would be open for the original Petitioners to move the learned Single Judge for expeditious hearing of the Writ Petition No.2957 of 2009.

7. Interim protection, if any, granted in the Review Application, shall continue for further SIX WEEKS from today, to enable the Petitioners to move the learned Single Judge and secure appropriate orders.

[A.I.S. CHEEMA, J.]

asb/DEC15

[R.M. BORDE, J.]