

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 320 OF 2014

SHRI. VINAYAK P. SALGAONKAR

... Petitioner

Versus

GOA STATE CO-OPERATIVE BANK AND 2
ORS.,

... Respondents

Mr. J. J. Mulgaonkar, Advocate for the petitioner.

Ms. S. Rivankar, holding for Mr. S. R. Rivankar, Advocate for the
respondent no.1.

Mr. G. Shirodkar, Advocate for the respondent no.3.

Coram:- C. V. BHADANG, J.

Date:- 31st August, 2015

P.C.

By this petition, the petitioner is challenging the judgment and order dated 20/01/2009 passed by the Registrar of Cooperative Societies, Panaji, Goa. The petitioner had obtained a loan from the first respondent, which is a multi-state Co-operative Bank, governed by the Multi-state Co-operative Societies Act, 2002. As the loan had fallen due, the first respondent had filed a cooperative dispute before the Assistant Registrar of Cooperative Societies at Panaji, in which, by a judgment and order dated 28/10/2002, the dispute filed by the petitioner was allowed and the present petitioner was, inter alia, held jointly and severally liable to pay the amount of Rs.4,24,296/- along with interest at the rate of 16.5 % p.a. from 01/10/2002 till realisation. Indisputably, the said award has not been challenged by

the petitioner and has thus attained finality.

2. It appears that the Recovery Officer of the first respondent had issued a proclamation notice and consequent auction by orders dated 10/03/2008 and 28/03/2008. These orders were sought to be challenged by the petitioner by filing an appeal before the Registrar of Cooperative Societies, which appeal was presented on 15/04/2008.

The learned Registrar has found that by Section 126 of the Multi-state Cooperative Societies Act, 2002, the provisions of the Multi-state Cooperative Societies Act, 1984 stood repealed and the saving clause provides that the legal proceedings, which are pending in any Court or before the Central Registrar or any other authority at the commencement of the Multi-state Cooperative Societies Act, 2002 are only saved. The Multi-state Cooperative Societies Act, 2002 came into force on 19/08/2002. It was, thus, found that the appeal, which is filed subsequent thereto in the year 2008, was not maintainable.

3. The petitioner, feeling aggrieved, is before this Court.

4. I have heard Shri Mulgaonkar, the learned Counsel for the petitioner, Ms Rivankar, holding for Shri S. R. Rivankar, the learned Counsel for the respondent no.1 and Shri Shirodkar, the learned Counsel for the respondent no.3.

5. On hearing the learned Counsel for the parties and on perusal of the record, I do not find that any case for interference is made out. Admittedly, when the appeal was filed, the provisions of the Multi-state Cooperative Societies Act, 2002 had already come into force. Shri Mulgaonkar, the learned Counsel for the petitioner fairly submits that an appeal would lie against the order of the Recovery Officer before the District Court. It would not be necessary to go into this aspect as presently we are only concerned with the challenge to the order dated 20/01/2009 passed by the Registrar of Cooperative Societies. I do not find that any case for interference is made out in as much as under the Multi-state Cooperative Societies Act, 2002, the appeal would not be maintainable as the appeal was admittedly filed after coming into force the Multi-state Cooperative Societies Act, 2002. In that view of the matter, the Writ Petition is dismissed with no order as to costs.

6. Needless to mention that the rival contentions of the parties are kept open, to be agitated before the appropriate forum, if any.

C. V. BHADANG, J.

SMA