

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION**

WRIT PETITION NO. 2347 OF 2005

WITH

CIVIL APPLICATION NO. 363 OF 2015

IN

WRIT PETITION NO. 2347 OF 2005

Shri Ram V.K.S. (Vikas) Seva
Sanstha Ltd., Kasba Bawade,
Kolhapur.

....Petitioner/
Applicant.

Vs.

- 1 Shri Sanjiv Baburao Chavan.
- 2 Shri Pandurang Tukaram Chougule.
- 3 Shri Krishnat Dattatraya Bhogaonkar

All R/o. Kasba-Bawada, Kolhapur.

....Respondents.

Mr. Tejpal S. Ingale for the Petitioner/Applicant.
Mr. Vijay Killedar for Respondent No.1.

CORAM:- ANOOP V. MOHTA, J.
DATE :- 5 MARCH 2015.

ORAL JUDGMENT:-

Taken out from the final hearing board.

2 The Petitioner-bank, Society has challenged order dated 6 January 2004 passed by the Maharashtra State Co-operative Appellate Court (Mumbai), Bench Pune, whereby the matter was remanded to the Trial Court for re-trial as per the law by dealing with all the points, but observed as under:-

- “5. I find the conduct of Appellant is not fair, he is denying the signature on Vakil Patra and W.S. the Appellant is educated person, his contention he still used to sign blank documents, cannot be accepted. According to Appellant, he blindly signed the acknowledgement, hence no conclusion can be drawn that nothing is due and payable by Appellant to the Society. Certainly if evidence as a whole is taken there are dues payable by Appellant to Respondent No.1 Society, but those dues of Respondent No.1 Society are required to be proved as per law. The Respondent No.1 society had failed to discharge it's duty and considering facts and circumstance the Respondent No.1 Society is an institution, claim of Respondent society cannot be thrown away only on account of technical defects in evidence produced by society. Hence it would be better to remand this case for retrial by giving opportunity to both the parties to lead additional evidence as well as to amend pleading if they find it necessary and can do legally.”

3 Heard the learned counsel appearing for the Parties. Considering the above reasons and as more opportunity was given to the parties to contest the issue, I see there is no reason to interfere

with the said order, as equal opportunity is also given to all the parties for re-trial. Therefore, by keeping all points open, by maintaining the order so passed, I am declined to entertain the present Writ Petition, however, with direction to complete the re-trial, if any, as early as possible, preferably within six months from today.

4 Writ Petition is dismissed.

5 Rule discharged, accordingly. No costs.

6 Considering the averments made in Civil Application No. 363 of 2015, as I am disposing of the present Writ Petition, the Petitioner is permitted to take out appropriate proceedings for interim relief and/or protection before the appropriate Authority. The Authority to pass order in accordance with law. In view of this, the Civil Application is also disposed of, with no order as to costs.

7 The parties to act on an authenticated copy of this order.

(ANOOP V. MOHTA, J.)