

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

WRIT PETITION NO.5032 OF 2015

Kai. Sushilatai Gaikwad
Bahuddeshia Sanstha, Solapur .. Petitioner.
Vs.
The Divisional Joint Registrar
Co-operative Societies & Anr. .. Respondents.

Mr. Sarang Aradhye for the Petitioner.
Mr. S.D. Rayrikar AGP for the Respondent No.1.

CORAM : A.K. MENON, J.

DATED : 27TH OCTOBER, 2015

P.C. :

1. The present petition seeks to challenge the impugned order dated 16.12.2011 passed by respondent no.2 and order dated 9.12.2014 passed by respondent no.1. By the order dated 16.12.2011 the second respondent being President of Board of Liquidator of Vasantdada Shetkari Sahakari Bank Ltd. passed an award/decreed pursuant to provisions of section 105(1)(h) of the Maharashtra Co-operative Societies Act, 1960 directing recovery of an amount of Rs.16.95,570/- from the petitioner and others along with interest at the rate of 16% from 1.9.2011.

2. In the appeal filed by the petitioner against the said order, the

Divisional Joint Registrar dismissed the appeal vide order dated 16.12.2011. Mr. Aradhya, learned advocate for the petitioners pointed out that the impugned order could not have been passed in the instant case since the board of liquidators were appointed pursuant to section 110A of the Act under which bank was treated as Insured Co-operative Bank and there was no provision for issuance of any recovery measures as contemplated under section 105. He submitted that only if the liquidator is appointed under section 103 could the powers under section 105 can be exercised inasmuch as under section 105 expressly provides that the liquidator appointed under section 103 shall have general powers of supervision, control and direction of the Registrar including power to recover amounts as provided under section 105(1)(a) and thereafter adopt such steps as are necessary to recover these amounts including by issuance of awards or decrees in this respect. Section 110A does not admit to such powers. In the instant case the board of liquidators were appointed pursuant to the order passed by the Reserve Bank of India on 16th February, 2009.

3. During the course of argument Shri Aradhya was requested to place on record a copy of the order passed under section 110A. Accordingly, a copy has been tendered today. The order records that the banking license of the said bank was cancelled pursuant to the order dated 6th January, 2009 and the Reserve Bank of India was satisfied that in the public interest such bank has failed to comply with

the requirement of section 22(a) and 22(3)(a) of the Act and accordingly the order of winding up was made and the liquidator was appointed to take charge in terms of section 110A specifically granting powers exercisable under section 105. In view of this position I am of the view that main ground of challenge will not be available to the petitioner inasmuch as the liquidator has been specially empowered to take all steps requisite under section 105 which includes power to recover amount due to liquidation.

4. In the circumstances the petition does not call for interference.

The writ petition is dismissed. No orders as to the costs.

(A.K.MENON, J.)