IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1662/2014

Shri Samarth Sotagir Maharaj
Gramin Bigar Sheti Sahakari Pat
Sanstha, Maryadit,
Registration No.554, Main Office
Near Petrol Pump, Tq. Tiwasa,
Distt. Amravati,
through its Manager. ..Petitioner.

..Versus..

1. Divisional Joint Registrar,
Cooperative Society,
Amravati.

2. Assistant Registrar,
Cooperative Society,
Tiwasa, Tq. Tiwasa,
Distt. Amravati.

3. Smt. Vidya Pramod Lawhale,
age adult, R/o Novelty Ladies
Tailor, Tiwasa, Tq. Tiwasa,
Distt. Amravati.

4. Shri Gopal Manikrao Thakare,
age adult, Occu. Agent,
R/o Narayan Nagar, Tiwasa,
Tq. Tiwasa, Distt. Amravati. ..Respondents.

Shri C.A. Babrekar, Advocate for the petitioner.
Shri D.B. Patel, A.G.P. for respondents 1 and 2.
Shri G.N. Khanzode, Advocate for respondent no.3.

<u>CORAM</u> : Z.A. HAQ, J.
<u>DATE</u> : 27.3.2015

<u>ORAL ORDER.</u>

1. Heard Shri C.A. Babrekar, the learned advocate for the petitioner, Shri D.B. Patel, the learned A.G.P. for the respondents 1 and 2 and Shri G.N. Khanzode, the learned advocate for the respondent no.3.

2. The petitioner has challenged the order passed by the Divisional Joint Registrar disposing of the revision filed by the petitioner and maintaining the order passed by the Assistant Registrar Cooperative societies upholding the claim of the respondent no.3 of Rs.15,750/-.

3. The respondent no.3 made complaint to the Assistant Registrar, Cooperative Societies that she had deposited Rs.24,650/- in her account which is with the petitioner, the amount having been deposited through the respondent no.4 who is working as the Agent of the petitioner and collecting the amount of deposits from the customers. The Assistant Registrar conducted an eqnuiry and after verifying the documents found that the respondent no.3 had deposited Rs.24,650/- in her account through the respondent no.4 during the period from

4th May, 2011 till February, 2012 out of which the petitioner had returned Rs.8,900/- to the respondent no.3, however, the balance amount of Rs.15,750/- was not returned. The Assistant Registrar directed the petitioner to return the amount of Rs.15,750/- to the respondent no.3.

4. The petitioner being aggrieved by the directions given by the Assistant Registrar had filed revision under Section 154 of the Maharashtra Cooperative Societies Act which is dismissed. The petitioner being aggrieved in the matter has filed this writ petition.

5. Shri Babrekar, the learned advocate for the petitioner has submitted that as per the practice, the depositor is given the receipt by the agent showing the receipt of amount by the agent, however, the respondent no.3 has not produced any receipt on the record on the basis of which it can be said that the respondent no.3 had given the amount to the respondent no.4 for depositing it in the account. It is submitted that the depositor is under an obligation to verify in every month that the amount given to the agent is deposited in the account and the petitioner had not been vigilant and had not verified in every month as to whether the amount paid by her to the agent, has been deposited in her account. It is submitted that the impugned orders are not based on any

evidence and they fasten the non-existing liability on the petitioner.

6. Shri Khanzode, the learned advocate for the respondent no.3 has submitted that the contention on behalf of the petitioner that the agent of the bank used to give receipt showing the deposit of the amount is not according to the facts of the case. It is pointed out from the order passed by the Assistant Registrar that there are entries showing the deposit by the respondent no.3, in the photocopy of passbook which are countersigned by the respondent no.4. It is submitted that the Assistant Registrar has given the directions to the petitioner to refund the amount of Rs.15,750/- to the respondent no.3 after examining the account books of the petitioner and after being satisfied that there is *malfeasance*. It is submitted that the subordinate Courts have passed the impugned orders on appreciation of the material on the record and the impugned order need not be interfered in the extraordinary writ jurisdiction.

7. The order passed by the Assistant Registrar shows that he has examined the account books of the petitioner and the entries in the photocopies of the passbook of respondent no.3 which are countersigned by the respondent no.4. It is undisputed that the respondent no.4 was working as the agent of the petitioner for collecting the deposits from the customers. It is undisputed that the

amount of deposit of the petitioner was being collected by the respondent no.4. The only dispute is as to whether the petitioner had given the amount of Rs.15,750/- to the respondent no.4 during the period from 4th May, 2011 till February, 2012 for depositing the amount in the account of the respondent no.3. The Assistant Registrar, after examining the documentary evidence, as referred above, has concluded that the respondent no.3 had given the amount to the respondent no.4 for depositing the amount in the account of the respondent no.3, with the petitioner. The findings recorded by the Assistant Registrar are maintained by the Divisional Joint Registrar. The petitioner has not been able to point out any illegality or perversity in the findings recorded by the subordinate Courts.

8. In view of the above, I see no reason to interfere with the impugned orders. The writ petition is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

Tambaskar.