

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
BENCH AT AURANGABAD**

WRIT PETITION NO.846 OF 2014

Akole Taluka Teaching &  
Non-teaching Employee's  
Rural Non-Agricultural  
Credit Co-operative Society  
Ltd., Akole, through its  
Manager  
Shri Dattatraya s/o Damodhar  
Wackchaure, Age 46 years  
Occu. Service, R/o Akole,  
Taluka Akole, Dist.Ahmednagar

..Petitioner

Versus

1. Smt. Kusum Sakham Kanwade,  
Age major, Occu. Service,  
R/o Zilla Parishad Primary School,  
Chas, Taluka Akole, District  
Ahmednagar, at present  
R/o Zilla Parishad Primary School,  
Chitalvedhe, Taluka Akole,  
District Ahmednagar
2. Chimaji s/o Rakhamaji Shelke,  
Age major, Occu. Service,  
R/o Zilla Parishad Primary School,  
Manyale, Taluka Akole,  
District Ahmednagar, at present  
R/o Raigad Housing Society,  
Akole, Taluka Akole,  
District Ahmednagar
3. Uttam s/o Ganpatgir Gosavi,  
Age major, Occu. Service,  
R/o Zilla Parishad Primar School,  
Chas, Taluka Akole,  
District Ahmednagar

..Respondents

Mr R.D. Bhalerao, Advocate for petitioner  
Respondents served

**CORAM : T.V. NALAWADE, J.**

**DATE : 24<sup>th</sup> August 2016**

**ORAL JUDGMENT**

1. Rule. Rule returnable forthwith. Heard finally at admission stage.

2. It was made clear that the matter was fixed for final disposal when notice was sent on Court motion. Notice is duly served, but the respondents have not turned up. In view of these circumstances, petition is being decided on the basis of submissions made by learned Counsel for the petitioner.

3. The petition is filed to challenge the order made below Exh.1 in Regular Darkhast No.93 of 2012 which was pending in the Court of Civil Judge, Junior Division, Akole, District Ahmednagar. The execution proceeding was filed by present petitioner, Co-operative society for execution of the award given in its favour by the Co-operative Court. Award of recovery of money due from present respondents is given in favour of society and for execution of the said award, the execution proceeding was filed.

4. The executing Court has dismissed the proceeding by holding that Civil Court has no jurisdiction and only the Registrar appointed under the Maharashtra Co-operative Societies Act, 1960 is the authority created for execution of such decision.

5. The executing Court has referred many provisions of the aforesaid Act. On this point, learned Counsel for petitioner placed reliance on the case, reported as **1984 Mh.L.J. 453 (Onkar Rajaram**

**Wathodkar Vs. Ramnarayan Khatod and sons).** In this case, this Court has discussed the relevant provisions, Section 98 (a) of the Maharashtra Co-operative Societies Act and Rule 83 of the Maharashtra Co-operative Societies Rules, 1961. After considering the provisions, this Court has laid down that two forums are created for execution of the award given by Co-operative Court like Registrar and Civil Court and it is open for the party in whose favour the award has been passed to select a particular forum of execution. In view of this position of law, this Court holds that the executing Court has committed error in dismissing the proceeding by holding that the Civil Court has no jurisdiction.

6. In the result, Writ Petition is allowed. The order dated 31.8.2013, passed below Exh.1 in Regular Darkhast No.93 of 2012 by Civil Judge, Junior Division, Akole, District Ahmednagar is set aside and the proceeding is restored to its original number.

7. The petitioner to appear before the executing Court on 10<sup>th</sup> October 2016. The executing Court is to issue notice to the judgment debtors and on only service of the notice, further orders are to be made in execution proceedings.

**( T.V. NALAWADE, J.)**