

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

CIVIL REVISION APPLICATION NO. 183 OF 2016

Ashok Shobhachand Kothari ..APPLICANT

VERSUS

Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator ..RESPONDENT

WITH

CIVIL REVISION APPLICATION NO. 184 OF 2016

Jawahar Shantilal Shah ..APPLICANT

VERSUS

Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator ..RESPONDENT

WITH

CIVIL REVISION APPLICATION NO. 185 OF 2016

Sanjay Vasant Satbhai ..APPLICANT

VERSUS

Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator ..RESPONDENT

WITH

CIVIL REVISION APPLICATION NO. 186 OF 2016

Rajendra Manikchand Fulpagar ..APPLICANT

VERSUS

Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator ..RESPONDENT

WITH
WRIT PETITION NO. 7646 OF 2016

Nandkumar Ramchandra Vispute ..PETITIONER

VERSUS

Balasaheb Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator ..RESPONDENT

WITH
WRIT PETITION NO. 8284 OF 2016

Sudha Ashok Tarodi ..PETITIONER

VERSUS

Balasaheb Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator ..RESPONDENT

WITH
WRIT PETITION NO. 8304 OF 2016

Sanjay Vasantrao Satbhai ..PETITIONER

VERSUS

Balasaheb Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator ..RESPONDENT

WITH
WRIT PETITION NO. 8310 OF 2016

Ramanlal Madanlal Kale ..PETITIONER

VERSUS

Balasaheb Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator ..RESPONDENT

WITH
WRIT PETITION NO. 8881 OF 2016

Kishor Swarupchand Gangwal

..PETITIONER

VERSUS

Balasaheb Satbhai Merchant Co-op Bank
Kopargaon, Tq. Kopargaon
District Ahmednagar
Through its Liquidator

..RESPONDENT

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Mr. Sanket Kulkarni, Advocate for applicants/petitioners.

Mr. P.P. Patil and Mr. N.R. Bhavar, Advocates for respondents.

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CORAM : T.V. NALAWADE, J.
DATED : 28th NOVEMBER, 2016

ORDER :

1. Civil Revision Applications bearing nos. 183 to 186 of 2016 are filed to challenge the order of the Executing Court to issue arrest warrant under Order 21 Rule 38 of the Code of Civil Procedure for sending the petitioners to civil prison for not paying the amount awarded against them in favour of respondent, a co-operative bank. Both sides are heard.

2. Submissions made show that in enquiry under Section 88 of the Maharashtra Co-operative Societies Act, 1960, which was started against the present petitioners, they were held liable to make payment to the respondent - co-operative bank. Appeals filed against said decision

were dismissed but the Hon'ble Minister allowed the revisions filed by them and the order of fixing liability on the petitioners was set aside by the Hon'ble Minister. Bank had challenged the decision of the Hon'ble Minister by filing writ petitions in this Court and this Court allowed the writ petitions filed by the bank on 24th October, 2016. It appears that the decision was not uploaded on the computer system till 17th November, 2016. Learned Counsel for petitioner submitted that as the petitioner could not get the certified copy of the decision given by this Court, no proceeding could be filed to challenge the decision in the Apex Court. He submitted that when this Court decided the matters, immediately the bank moved to the Executing Court for making further orders under Order 21 of the Civil Procedure Code and even necessary show cause notice was not issued and reply could not be filed as copy of decision given by this Court was not available to the petitioners. He submitted that only due to that circumstance present petitions were required to be filed.

3. It is not disputed that the judgment delivered by this Court was uploaded on 17th November, 2016. Though in the past this Court had refused to grant stay, due to the aforesaid circumstance this Court holds that some breathing time needs to be given to the petitioner to file

appropriate proceeding to challenge the decision given by this Court. So in these first four proceedings the time of fifteen days is given to the applicants from today and in those terms, civil revision applications are disposed of. Till the expiry of fifteen days period, warrant is not to be executed against them.

4. The writ petitions are filed to challenge the order of attachment of property of the petitioners made by the Civil Court on the basis of the order made under Section 88 of the Maharashtra Co-operative Societies Act which was confirmed by the Appellate Court. This decision of the enquiry was also set aside by the Hon'ble Minister in revisions filed by the petitioners of the writ petitions. Only due to the decision given by this Court in writ petitions filed by bank, now the bank is in position to proceed against these petitioners – directors. This Court has restored the order made by enquiry officer under Section 88 of the Maharashtra Co-operative Societies Act. It can be said that when the Hon'ble Minister had set aside the order made by the enquiry officer, the execution proceeding could not have been continued but due to stay granted by this Court, the order of attachment of property was made against the petitioners. In view of these circumstances, this Court holds that to these petitioners also opportunity needs to be given to challenge the decision of this Court. So

the time of fifteen days is granted. The Executing Court is not to execute the decision of enquiry for fifteen days. The time is to be counted from today. In those terms, the writ petitions are disposed of. Authenticated copy to both sides.

(T.V. NALAWADE, J.)

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