

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9221 OF 2015

Ravindra Bhagwat Jawale

Petitioner

Versus

The District Deputy Registrar,
Co-operative Societies, Jalgaon & others

Respondents

Mr.B.A. Chavan advocate for the petitioner
Mr.S.S.Dande, AGP for Respondents

CORAM : ***R.M. BORDE & A.I.S. CHEEMA, JJ***

Dated : 28th JANUARY, 2016.

PER COURT :-

1 The petitioner is praying for quashing and setting aside the recovery certificate dated 15.9.2008 issued by the respondent No.2, Assistant Registrar, Cooperative Societies, Yawal and consequential action of recovery of the amount, covered under the certificate, by taking recourse to the sale of the property belonging to the petitioner, in an auction conducted in the year 2009.

2 The petitioner objects to the certificate, primarily on the ground that, the certificate has been issued and the consequential action of sale for the purpose of enforcing recovery has been

taken, while the petitioner was lodged in jail between 29.10.2007 till 28.12.2010.

3 In normal circumstances, we would have surely caused interference in the matter. However, this is an exceptional case and as such, we need not exercise equity jurisdiction under article 226 of the Constitution of India. The petitioner who was the Director and Office bearer of one Faizpur Merchant Credit Cooperative Society, was taken in custody in connection with the offence of misappropriation of the funds of the said society under provisions of Sections 420, 409 and 120-B IPC. The petitioner is alleged to have secured loan to the tune of Rs.3,00,00,000/- (Rupees Three crores) in his name from one Gurudeo Merchant Credit Cooperative Society and has further borrowed a sum of Rs. 3,00,00,000/- (Rupees Three crores) in the name of his wife, who was the Director of Gurudeo Merchant Credit Cooperative Society.

4 It is recorded in the affidavit in reply presented on behalf of respondent Nos.1 and 2 that, Gurudeo Merchant Credit Cooperative Society had been facing several financial problems since the year 2007 and is listed as one of the problematic societies in the State amongst list of 469 societies. The Assistant Registrar – Cooperative Societies, therefore, appointed

Administrator in exercise of powers under section 78 of the Act to administer the affairs of the said society. The petitioner is founder Chairman of Faizpur Merchants Credit Cooperative Society and is responsible for misappropriating the amount to the tune of Rs.380.20 lakhs and enquiry has been conducted in that behalf under section 88 of the Maharashtra Cooperative Societies and liability in respect of aforesaid amount has been fixed upon the petitioner. The wife of the petitioner Rajani Jawle is held responsible for an amount of Rs.34.34 lakhs, during the course of the enquiry, conducted by the Official of the Cooperative Department, in respect of Gurudeo Merchant Credit Cooperative Society. It is further pointed out that, a test-audit under section 81 has been conducted and three FIRs have been presented against the petitioner.

5 In para Nos.9 to11 of the affidavit in reply, it is recorded thus:-

“ 9. I Say and submit that, the petitioner has stated that the Faizpur Merchant invested 5 crores in Gurudev Merchant in false entry made by the auditor. The respective Audit of the Society was done by the appointed government auditor and he had given his opinions according to the records of the society.

10 I Say and submit that, the petitioner has stated that the respondent No.5 i.e. Pramod Dinkar Patil,

Administrator of the said Society and respondent No.6 i.e. Sandeep Bhojraj Varma, Special Recovery Officer of the said Society had passed false resolutions and sanctioned 3 crores loan in petitioner wife's name.

11 I say and submit that, the above mentioned respondent No.4 i.e. Dilip Chintaman Shinde office of the district Special Auditor Class I, Cooperative Societies, Jalgaon, Dist. Jalgaon has produced some relevant documents to the office of Assistant Registrar Co-operative Societies, Yawal. In which it is mentioned that the cash credit loan demand of Mr. Ravindra Bhagwat Jawle and his wife Mrs. Rajni Ravinda Jawle was sanctioned in the Director Body Meeting dated 30.2.2006. The extract of cash credit account of Mrs. Rajani Ravindra Jawle shows that, she was disbursed loan of Rs.2.00 crores on 26.2.2007 and Rs.1 crore on 03.04.2007. And the extract of cash credit account of Mr. Ravindra Bhagwat Jawle shows that he was disbursed loan of Rs.68 lacs on 26.2.2007 and Rs.1,89,54,455/- on 27.2.2007. The copies of relevant account is annexed herewith **EXHIBIT R-1**. "

6 It is further stated that, the loans specified above have been sanctioned during the continuance of the elected body of the Directors. At the relevant time, the petitioner was the Chairman of the above mentioned societies .

7 In view of the shocking revelation made as above, in the affidavit in reply presented on behalf of the respondents, we are of

the considered opinion that, extraordinary jurisdiction under article 226 of Constitution of India need not be exercised in the instant matter, in favour of the petitioner. The writ petition is devoid of substance and stands dismissed.

(A.I.S. CHEEMA, J)

(R.M.BORDE, J)

vbd