

UNREPORTED**IN THE HIGH COURT OF JUDICATURE AT****BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.3620 OF 2016.**

Shri P.K.Anna Patil Janta
Sahakari Bank Limited,
Nandurbar (In Liquidation)
through its Liquidator
Branch Manager
Shri Kashinath Vanji Patil,
Age 55 years, Occ.Service,
R/o 26, Trimbaknagar,
W.B.Road, Deopur, Dhule,
District Dhule.

... Petitioner.

Versus

1. The State of Maharashtra.
Through the Secretary for
Revenue Department,
Mantralaya, Mumbai.

2. The Collector, Nandurbar,
District Nandurbar.

3. The Tahsildar, Nandurbar,
Tq. and Dist.Nandurbar.

4. The State Bank of India,
Nandurbar Branch, Nandurbar,
Dist.Nandurbar, through
its Branch Manager.

... Respondents.

...

Mr.V.D.Hon, Senior advocate i/by Mr.A.V.Hon,

advocate for the petitioner.
Mr.S.P.Sonpawale, A.G.P. for the State.
Mr.M.S.Deshpande, advocate holding for
Mr.C.R.Deshpande, advocate for Respondent No.4.

...

**CORAM : S.V.GANGAPURWALA AND
K.K.SONAWANE, JJ.**

Date : 13.04.2016.

ORAL JUDGMENT (Per S.V.Gangapurwala, J.)

1. Heard.
2. Rule. Rule returnable forthwith. With the consent of the parties, the petition is taken up for final hearing.
3. The order passed by the Tahsildar, thereby directing to freeze the account of the petitioner for an amount of Rs.67,42,680/- (Rupees sixty seven lacs forty two thousand six hundred eighty) is assailed.
4. Mr.Hon, learned Senior counsel submits that Liquidator is appointed on the petitioner-society in the year 2009. Because of the order passed by the Tahsildar, it has become difficult

for the Liquidator to function. As per Section 107 of the Maharashtra Cooperative Societies Act, no orders can be passed with regard to proceedings against the society in liquidation, without the leave of the Registrar. The learned Senior counsel submits that without taking leave, the impugned order has been passed. The distribution and payment of dues has to be done by the Liquidator as per Section 105 of the Maharashtra Cooperative Societies Act.

5. Mr.Sonpawale, learned A.G.P. submits that as per Section 25(3) of the Consumer Protection Act, the order has been passed. The District Consumer Forum had allowed the claims of the depositors, the petitioner did not make the payment of the same, as such the Tahsildar was required to pass the impugned order.

6. We have also heard learned counsel for Respondent No.4.

7. We have considered the submissions. The Respondent No.4 has put on hold the account of

the petitioner to the extent of Rs.67,42,680/- (Rupees sixty seven lacs forty two thousand six hundred eighty) pursuant to the impugned order of the Tahsildar. Reading provisions of Sections 105 to 107, it is manifest that payment of the dues of the society have to be made by the Liquidator after considering the priority of the claims, secured claims etc. Even as per Section 107 of the Maharashtra Cooperative Societies Act, whenever Liquidator is appointed, no proceedings can proceed without the leave of the Registrar. The Tahsildar, without considering the said aspect has passed the impugned order.

8. In light of the above, the impugned order is quashed and set aside. Rule is made absolute in terms of prayer clause (B). No costs.

Sd/-
(K.K.SONAWANE, J.)

Sd/-
(S.V.GANGAPURWALA, J.)

