

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3605 OF 2012

Ramesh S/o Shripati Rohokale
Age: Major, occu: Agri
R/o Bhalvani, Tq. Parner
Dist. Ahmednagar

Petitioner

Versus

- 1 The State of Maharashtra,
Co-operative Department
Mantralaya, Mumabai 32
through: The Secretary
- 2 The Deputy Registrar,
Ahmednagar,
Dist. Ahmednagar
- 3 The Sampada Nagri Co-op Credit Society Ltd
Ahmednagar, Dist. Ahmednagar
through: The Administrator
- 4 M/s D.M. Baraskar & Company
Chartered Accountant,
The Sampada Nagri Co-op Credit
Society Limited, Ahmednagar
R/o A-8, Gurukul, Laltaki,
Ahmednagar, Dist. Ahmednagar

Respondents

WITH
WRIT PETITION NO.3613 OF 2012

- 1 Rajendra Sonabapu Bachkar,
Age: major, occu: Agri
R/o Bhalvani, Tq. Parner
Dist. Ahemadnagar
- 2 Maruti Sonabapu Bachkar
Age: major, occu: Agri
R/o as above.

Petitioners

Versus

- 1 The State of Maharashtra,
Co-operative Department
Mantralaya, Mumabai 32
through: The Secretary
- 2 The Deputy Registrar,
Ahmednagar,
Dist. Ahmednagar
- 3 The Sampada Nagri Co-op Credit Society Ltd
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Chartered Accountant,
The Sampada Nagri Co-op Credit
Society Limited, Ahmednagar
R/o A-8, Gurukul, Laltaki,
Ahmednagar, Dist. Ahmednagar

Respondents

Mr.A.S. Gandhi advocate for the petitioners
Mr.P.S. Patil, AGP for Respondent State
Mr. Dharandale h/f Mr. R.A. Tambe, Advocate for respondent Nos.3 & 4

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

Dated : 4th JANUARY, 2016.

ORAL JUDGMENT

(Per: R.M. Borde, J)

- 1 Heard.
- 2 Rule.

3 With the consent of the parties, petitions are taken up for final disposal at admission stage.

4 The petitioners are objecting to the Notices issued by the Chartered Accountant, who has conducted audit of the respondent bank, directing the petitioners to deposit the amount due and payable by them towards the loan and it has been further warned that, in the event of their failure, the auditor would lodge criminal prosecution against them.

5 So far as the aspect of recovery of amount is concerned, it is not within the domain of the Chartered Accountant, who has conducted the audit, to enforce recovery and it is for the bank to take appropriate steps. It would be open for respondent No.3 bank to initiate proceedings and recover the amount due and payable by the petitioners. It is informed that, recovery proceedings have already been initiated by the bank and it would be open for the bank to file appropriate recovery proceedings and enforce the recovery of the amount. So far as the initiation of criminal prosecution is concerned, it would be open for either the auditor or respondent bank or the officer of the cooperative department to take steps and lodge First Information Report and set the criminal law in motion, in the event it is found that the petitioners have committed any crime. Such liberty was also granted by this Court

issuing the order dated 4.5.2012.

6 In view of reasons stated above, we deem it appropriate to allow the petitions partly. Notices impugned in the petitions issued by the Chartered Accountant are quashed and set aside. As has been recorded above, so far as the recovery of amount and lodging of FIR in respect of alleged criminal acts of petitioner, it would be open for the respondents to take appropriate action in accordance with law.

7 Rule is made absolute to the extent specified as above.

8 No costs.

(A. I. S. CHEEMA, J)

(R.M.BORDE, J)