

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

WRIT PETITION NO. 5292 OF 2016

M/s Phepale Krishi Seva Kendra, Dhad ..PETITIONER

VERSUS

The Malkapur Urban Co-operative Bank Ltd. ..RESPONDENT

....
Mr. D.S. Bharuka, Advocate for petitioner.

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**CORAM : T.V. NALAWADE, J.
DATED : 13th OCTOBER, 2016**

ORDER :

1. The petition is filed to challenge the order made by the Assistant Registrar, Co-operative Societies in the matter filed by the respondent under Section 101 of the Maharashtra Co-operative Societies Act, 1960. Heard learned Counsel for petitioner.

2. The learned Counsel for petitioner submitted that in past, loan was taken from the respondent – bank from Chikhali Branch in the year 2010 but the arrears were paid and then the charge was released by executing appropriate documents by the concerned branch. The learned Counsel submitted that in spite of this circumstance in loan account, the

amount of Rs.1.54 crores is shown as the amount due from present petitioner and the charge is again shown to be created on the same property. It is contended that this entry was made behind the back of the petitioner and there was no such transaction. This Court has gone through the reasoning given by the Assistant Registrar, Co-operative Societies and the submission made before the Assistant Registrar by the bank. It appears that there was another application given on 06th February, 2014 and the property was given by mortgage for the loan of Rs.2.25 crores. In view of this circumstance, the objection taken by the present petitioner is not decided in his favour by the Assistant Registrar.

3. Under Section 154 of the Maharashtra Co-operative Societies Act, 1960 revision is available against the order made by the Assistant Registrar. The learned Counsel for petitioner placed reliance on one reported case **2015(6) Mh.L.J. 647 (C-5 Facility and Security Services, Nagpur Vs. Bharat Sanchar Nigam Ltd., Nagpur)** and he submitted that even when alternate remedy is available, writ can be entertained. He submitted that making of such entry is itself illegal and so writ can be entertained. It is true that in exceptional circumstances writ petition can be entertained but in the present matter this Court holds that there is alternate remedy which is efficacious. This

Court holds that it is not desirable to entertain the writ petition as the matter relates the dispute about the facts. The proceeding like writ petition is filed to avoid the liability to make payment as for entertaining revision, some payment is required to be made out of liability amount.

4. In that result, petition stands dismissed with liberty to file appropriate proceeding before the appropriate forum.

(T.V. NALAWADE, J.)

SSD