

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

17 WRIT PETITION NO. 9022 OF 2015
WITH CA/16161/2015 IN WP/9022/2015

M/s. S.V. THOMBRE AND ASSOCIATES THROUGH ITS
PROPRIETOR SHRIPAD VINAYAK THOMBRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Shri. C.V. Thombre, Advocate, for petitioner.

Shri. S.N. Kendre, Assistant Government Pleader, for
respondent Nos.1 to 3.

Shri. Nitin R. Bhavar, Advocate, for respondent No.4.

CORAM: T.V. NALAWADE, J.

DATE : 3 OCTOBER 2016

ORDER:

1) The petition is filed to challenge the order made by the learned Assistant Registrar, Cooperative Societies by which certificate under section 101 of the Maharashtra Cooperative Societies Act, 1960 was issued in favour of respondent No.4, society. Both the sides are heard.

2) Loan of Rs. one crore was sanctioned to the petitioner on application made on 1-10-2013 and it was

sanctioned and disbursed on 10-10-2013. Similarly, another loan of Rs. One crore was sanctioned to the wife of the petitioner viz. Smt. Dipali on the same day and the amount was disbursed. The same immovable property, Gat No.401 admeasuring 1 hectare 17 R was given by way of mortgage to the society for security of this loan. By the end of September 2014 the amount of only Rs.3.55 lakh was paid by present petitioner and so the proceeding was filed before the Assistant Registrar, Cooperative Societies for getting certificate under section 101 of the Act. Public notice was issued on 5-1-2015 but the petitioner did not turn up and so on 21-1-2015 order was made to issue certificate under section 101 of the Act.

3) There is provision like Section 154 in the Maharashtra Cooperative Societies Act and revision can be filed against such order of the Assistant Registrar but instead of filing such revision, writ petition is filed.

4) It was submitted by the learned counsel for the petitioner that the procedure given in rule 86 of the Maharashtra Cooperative Societies Rules, 1961 was not

followed and there was no proper service of notice on the petitioner. It was submitted that due to this reason this court can interfere in the order made by the learned Assistant Registrar. He placed reliance on the case reported as **2015 (3) Mh.L.J. 482 (between Balasaheb and Joint Registrar of Cooperative Societies)**. In that case decision given by the revisional authority was challenged and writ petition was entertained. Thus, the facts were different. In any case when there is alternate remedy like revision in which every contention can be made, this Court is not expected to entertain the writ petition. It appears that the petitioner already got more than one and half years by taking step like filing writ petition as the certificate was issued on 21-1-2015. It was submitted that amount of Rs.25 lakh was deposited as per direction given by this Court and this circumstance shows that the petitioner wants to make the payment. Such interim order cannot be considered when the proceeding is heard for admission purpose or for final disposal. The fact remains that the petitioner ought to have filed revision. One more circumstance was brought to the notice of this Court by the learned counsel for the society. He produced written

communication of the society dated 26-9-2016 showing that on the application made by the present petitioner, the loan is renewed. In view of this circumstance, the society has informed that the petitioner needs to withdraw the petition. This circumstance shows that the society is helping the petitioner. Whether it is in the interest of the society or not that point need not be considered in the present proceeding, at this stage. As the petition itself is not tenable, this Court holds that there is no possibility of interference by exercising writ jurisdiction in the order made by the learned Assistant Registrar. In the result, the petition stands dismissed. Civil Application No.16161 of 2015 stands disposed of.

Sd/-
(T.V. NALAWADE, J.)

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