

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Civil Revision Application NO. 57 OF 2015

THE MANAGER,
SHREE GANESH SAHAKARI SANSTHA BANK
LTD., AND ANR . ..Applicants

Versus

SHRI. PRASHANT VISHWANATH JADHAV
AND ORS. ...Respondents

WITH

Civil Revision Application NO. 58 OF 2015

THE MANAGER SHREE GANESH SAHAKARI
SANSTHA BANK LTD., AND ANR . ..Applicants

Versus

SMT. MANGALA SURESH WATPADE
AND ORS Respondents

WITH

Civil Revision Application NO. 59 OF 2015

THE MANAGER SHREE GANESH SAHAKARI
SANSTHA BANK LTD., AND ANR ... Applicants

Versus

SHRI. NILESH SURESH WATPADE
AND ORS. .. Respondents

WITH

Civil Revision Application NO. 60 OF 2015

THE MANAGER SHREE GANESH SAHAKARI
SANSTHA BANK LTD., AND ANR ... Applicants

Versus

AMOL GANPAT WATPADE AND ORS .. Respondents

WITH

Writ Petition NO. 962 OF 2015

SHRI. PRASHANT VISHWANATH JADHAV
AND ANR.

... Petitioners

Versus

SHRI. VISHWANATH BABURAO JADHAV
AND ORS.

.. Respondents

Mr. Ashok B. Tajane, Advocate for Applicants in C.R.A. Nos. 57 to 60 of 2015.

Mr.S.M.Sabrad, Advocate for Respondents no.1 and 2 in CRA Nos 57 to 60 of 2015 and Petitioner in Writ Petition No.962 of 2015.

Mr. Madhav Jamdar, Advocate for Respondent no.1 in WP/962/2015.

Mr. Hiten S. Venegaonkar, Advocate for Respondents no. 7 and 8 in WP/962/2015.

CORAM : R.G.KETKAR,J.

DATE : 28/01/2016

PC:

1. Heard Mr. A. B. Tajane, learned counsel for the applicants in C.R.A. Nos.57 to 60 of 2015, Mr. Suresh Sabrad, learned counsel for respondents no.1 and 2 (original plaintiffs) in the C.R.As. and for petitioners in Writ Petition No. 962 of 2015 and, Mr. Madhav Jamdar, learned counsel for respondent no.1 and Mr. Hiten Venegaonkar, learned counsel for respondents no. 7 and 8 in Writ Petition No.962 of 2015 at length.

2. Civil Revision Application Nos 57 to 60 of 2015 are instituted at Shree Ganesh Sahakari Sanstha Bank Ltd (for short, 'Bank) through the Manager and (2) Recovery and Sales officer of the Bank, challenging the orders passed by the trial Court by

which applications filed by them for rejecting the complaints on the ground that the suits are barred by law, are rejected. The Bank and the Recovery Officers filed applications, inter alia, on the ground that the suits are bad for not giving notice under section 164 of the Maharashtra Cooperative Societies Act, 1960 (for short, 'Act') as also notice under section 80 of C.P.C.

3. The applications and petition were heard and at the request of Mr Sabrad, they were adjourned till today so as to enable him to take instructions from the original plaintiffs as to whether the plaintiffs are ready and willing to delete Bank and Special Recovery Officer from the suits as also the assertions pertaining to them in the body of the suits and for deleting prayer clause (d). Mr. Sabrad states that one of the plaintiffs Prashant Vishwath jadhav is present in the Court. He has tendered photocopy of his Aadhar card which is taken on record and marked "X" for identification.

4. Upon taking instructions from Mr. Jadhav, Mr. Sabrad states that within one week from today, the plaintiffs will take out appropriate applications in all the suits for deleting the Bank as also Recovery Officer and also consequential amendments in the suits as also for deleting prayer clause (d) against the Bank and the Recovery Officer. He assures that within one week from today he will take out applications and serve copy in advance on the

other side. If such applications are taken out, the learned trial Judge shall allow those applications. If, however, for any reason the plaintiffs do not take out applications within one week from today, liberty is reserved to the Bank and Recovery Officer to take out the applications in the aforesaid terms. If such applications are taken out, the learned trial Judge will allow those applications.

5. Mr. Sabrad states that liberty may be reserved to the plaintiffs to challenge the actions of the Bank and Recovery Officer by adopting appropriate proceedings including proceedings under Rule 107(19) of the Maharashtra Cooperative Societies Rules, 1961 (for short, 'Rules'). He further submits that interim order granted by the learned trial Judge on 6.5.2014 may be continued for a period of 4 weeks from today so as to enable the plaintiffs to take out appropriate proceedings.

6. In view thereof, Civil Revision Applications and Writ Petition are disposed of in the following terms:

(i) The plaintiffs shall take out applications for amending the plaints within one week from today so as to delete Bank and Recovery Officer as also for carrying out consequential amendments in the suits and for deletion of prayer clause (d). The learned trial Judge will allow those applications within two weeks from today.

(ii) If for any reason, the plaintiffs do not take out applications in the aforesaid terms, the Bank and Recovery Officers are at liberty to file applications in the aforesaid terms. If such applications are made, the learned trial Judge will allow the same within one week of receipt of the same.

(iii) The plaintiffs are at liberty to take out appropriate proceedings for challenging the actions of the Bank and the Recovery Officer including the proceedings under Rule 107(19) of the Rules.

(iv) For a period of 4 weeks from today, interim order dated 6.5.2014 passed by the learned trial Judge shall remain in force subject to condition that no further application for continuation of that order shall be entertained by this Court. Continuation of ad-interim order shall not be construed as an expression of merits either way. The concerned Authority shall decide the application on its own merits and in accordance with law. All contentions in that regard are expressly kept open.

(v) In view thereof, nothing survives in these Civil Revision Applications and Writ Petition and the same are accordingly disposed of. Order accordingly.

(R.G.KETKAR, J.)