

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9126/2016 WITH 8089/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Shashank for the petitioner
Mr. Harish R. Pawar for the respondent No.1.
Mr. S. D. Rayrikar, AGP for respondent Nos.2 and 3.

CORAM : K. K. TATED, J.
DATE : AUGUST 30, 2016

P.C.:

1. None for the parties in Writ Petition No.8089/2016. Hence, the Writ Petition stands dismissed for default.

2. Later on; Mr. Shashank, Advocate for the petitioner in Writ Petition No.8089/2016 mentioned the matter along with Mr. J. A. Madane, learned AGP for respondent No.14 State.

3. Considering the submissions made by the learned counsel for the petitioner, earlier order is recalled. Writ Petition in Writ Petition No.8089/2016 is restored to file.

4. Heard. The main grievance of the petitioner in both these Writ Petitions is that the respondent's advocate has not given them inspection on the

basis of which they filed recovery application u/s. 101 of the Maharashtra Cooperative Societies Act, 1960 (the said Act).

5. It is to be noted that, till today, the petitioner has not filed their written statement in application u/s.101 of the said Act. As per Rule 86D of the Maharashtra Cooperative Societies Rules, 1961, the petitioner can call upon the respondent Bank for inspection of all documents only after filing written statement. Rule 86(d) reads thus:

86D. Production and Inspection of documents :

(1) The parties shall file the documents referred to in the pleadings at the time of filing application and statement of defence, as the case may be. If either party satisfies the Registrar that any document is relevant and the same is in the custody of the opposite party, the Registrar may, by an order in writing, direct such party to produce such document on the next date of hearing. However, no such application shall be entertained from the opponent before filing his written statement in defence.

(2) If the party so ordered, fails to produce such documents on the next date of hearing, the Registrar may draw adverse inference against such party and hearing of the original application shall not be postponed till filing of documents or for the reasons of such non compliance of the order.

(3) If the Registrar is satisfied that the documents required to be produced, cannot be brought before the Registrar for sufficient reasons like its volume or otherwise, the Registrar may allow the opposite party to take inspection of the documents within seven days from the date of order of such inspection.

(4) If the Registrar is satisfied that the opponent had no access to the documents earlier and the filing of additional statement is necessary, he may allow the filing of such additional statement. In no other case, such additional statement shall be allowed to be filed.”

6. After arguing for some time, the learned counsel for the petitioner submits that the petitioner may be granted 6 weeks time to file written statement and liberty to take out appropriate proceedings for inspection of original documents from the respondent bank. He further submits that they also made application before the Authority for issuing perjury notice against the concerned officer of the respondent bank.

7. Considering the submissions made by the learned counsel for the petitioner and Rule 86D, following order is passed:

a. The petitioner is permitted to file written statement in both the matters within six weeks from today, with copy to other side.

b. After filing written statement within stipulated time as stated hereinabove, liberty granted to the petitioner to make appropriate application, if they so desire for inspection of documents and for other reliefs according to law, which will be decided by the authority as early as possible.

c. Both the Writ Petitions stand disposed of accordingly.

JUDGE