

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

WRIT PETITION NO.4946 OF 2015

The Maharashtra State Co-operative Marketing Federation Limited	...	Petitioner
Versus		
Naval Ramdas Patil	...	Respondent

.....

Mr. P.M. Palshikar for the Petitioner.
Mr. Vivek V. Salunke for the Respondent.

.....

CORAM : R.M. BORDE, J.

DATE : 21 SEPTEMBER, 2016

P.C. :

. The Petitioner is raising exception to the order passed by the Co-operative Appellate Court at Mumbai, dated 21 February 2014, whereby the Appeal No.77 of 2012 presented by the Respondent-employee of the Petitioner, challenging the order passed by the Co-operative Court No.I, Mumbai prescribing responsibility for payment of amount to the extent of Rs.99,820/- together with interest @18% per annum from March 2003 till realisation of the amount has been set aside.

2 The dispute was presented by the Petitioner before the Co-operative Court No.I, Mumbai claiming recovery of amount of Rs.2,12,009/-. According to the Disputant, as a result of illegal and unauthorised activities of the Respondent-employee, the Petitioner-Federation has sustained loss.

It is contended that the Respondent-employee has caused the loss to the extent of Rs.1,12,789/- on account of sale of Fertilizers, whereas the loss on account of sale of onions is to the extent of Rs.3,11,250/-. The Co-operative Court framed issues, as to whether the Petitioner herein proves that the Respondent-employee herein caused loss of Rs.2,12,009/- to the Petitioner-Federation and whether the Respondent-employee is liable to reimburse the amount. The Co-operative court has held that the Petitioner-Federation has proved the liability in respect of the amount of Rs.99,820/- and as such issued directions in respect recovery of the aforesaid amount from the Respondent-employee, together with interest @ 18% per annum.

3 In the appeal presented by the Respondent-employee, the Co-operative Appellate Court at Mumbai held that the loss caused by the Respondent-employee on account of sale of the onions, is merely presumptive and there is no evidence led on record by the Petitioner-Federation supporting their contention that the rate of onions at the relevant time was Rs.220/- to Rs.250/- per quintal. The contention raised by the Petitioner-Federation in respect of the loss is merely presumptive in nature and there is absolutely no evidence on record to demonstrate that the actual loss was caused on account of illegality committed by the Respondent-employee. The Appellate Court allowed Counter Claim lodged by the employee and directed refund of amount of Rs.2,11,430/-, together with interest at 9% per annum. The amount was recovered by the Federation from employee towards the financial liability, which itself was subject matter of dispute before the Co-operative Court. Since claim of Federation in respect of aforesaid financial liability has been turned down, the employee i.e. the Respondent is entitled to claim the amount illegally

recovered by Federation. In my view, the reasons recorded by the Co-operative Appellate Court in support of the findings drawn, are reasonable and proper and do not call for any interference in exercising its writ jurisdiction under Article 226 of the Constitution of India. The Petition is devoid of substances, hence, stands dismissed.

(R.M. BORDE, J.)