IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7474 OF 2013

M/s Pace Engineers ..Petitioner
Vs.
The Liquidator
Vasantdada Shetkari Sahakari Bank Ltd. & Ors ..Respondents

Mr. Balwant Salunkhe for the Petitioner
Mr. S.A. Masal for the Respondent Nos.1 and 2
Mr. S. D. Rayrikar AGP for the Respondent Nos.3 & 4

CORAM : R. M. SAVANT, J.
DATE : 29th MARCH, 2016

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 30-3-2013 passed by the Divisional Joint Registrar, Co-operative Society, Solapur Division, Solapur, by which order, the Appeal filed by the Petitioner came to be dismissed and resultantly the order dated 15-5-2012 passed by the Board of Liquidators came to be confirmed.

2 It is an undisputed position that the Petitioner was a borrower from the Respondent No.1 Co-operative Bank. The Respondent No.1 Bank has gone into liquidation and the Registrar has appointed a Board of Liquidators on the said Bank. It seems that the Board of Liquidators commenced proceeding under Section 105(h) against the Petitioner and the other persons i.e. the sureties and guarantors which proceedings culminated in the order

dated 15-5-2012 passed by the Chairman of the Board of Liquidators by which order an amount of Rs.2,26,03,047/- with interest @ 16 p.a. from 1-9-2011 was directed to be recovered from the persons named in the said order amongst whom is the Petitioner. The said order dated 15-5-2012 was taken exception to by the Petitioner by filing an Appeal before the Divisional Joint Registrar which Appeal was numbered as Appeal No.145 of 2012. In the said Appeal contention was raised that since the Assistant Registrar has refused to commence proceedings under Section 101 and has directed the Respondent No.1 Bank to initiate proceedings under Section 91 of the Maharashtra Co-operative Societies Act, the Board of Liquidators could not have resorted to Section 105(h) of the said Act. The said contention was rejected by the Divisional Joint Registrar i.e. the Appellate Authority on the ground that the proceedings under Section 105(h) are proceedings to which recourse can be taken by the liquidator who has been appointed on the society in question to recover the amount due from the debtors / borrowers. The Appellate Authority as accordingly by the impugned order dated 30-3-2013 has dismissed the Appeal.

3 It is sought to be contended on behalf of the Petitioner that in terms of Rule 89(5) of the Maharashtra Co-operative Societies Rules, an order passed under Section 105(h) has to be sent for approval to the Registrar.

4 In my view, it is not possible to accept the said contention as against the said order the Petitioner who is a defaulting borrower has filed an Appeal under Section 152 of the said Act which Appeal has been dismissed by the Appellate Authority by the impugned order dated 30-3-2013. Hence the order passed by the Board of Liquidators has the seal of approval of the Divisional Joint Registrar. Hence no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]