

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9939 OF 2014**

Ananda Ishwara Burud	..Petitioner
Vs.	
MSEB Employees Credit Co-op Society Ltd & Anr	..Respondents

Ms Asmita S. Jaiswal for the Petitioner
Mr. U. R. Mankapure for the Respondent No.1

CORAM : R. M. SAVANT, J.
DATE : 20th DECEMBER, 2016

P.C.

1 The Writ Jurisdiction of this court is invoked against the order dated 4-10-2014 passed by the Learned Member of the Maharashtra State Co-operative Appellate Court by which order the Appeal in question being Appeal No.153 of 2012 came to be allowed and resultantly the Award dated 7-4-2004 passed by the Learned Judge Co-operative Court No.1, Sangli came to be set aside on the Petitioner depositing an amount of Rs.1,50,000/- on or before 4-11-2014.

2 The Petitioner herein was a member of the Respondent No.1 Credit Society which is a society of the employees of the erstwhile Maharashtra State Electricity Board. It seems that the Petitioner had availed of financial assistance from the society at the relevant time and the outstanding due against the Petitioner was an amount of Rs.2,27,503/-. The Respondent

No.1 therefore filed a dispute under Section 91 of the Maharashtra Co-operative Societies Act. Though the Petitioner was served in the dispute, the Petitioner did not appear in the same.

3 The dispute proceeded exparte which resulted in the Award dated 7-4-2004 passed against the Petitioner, which award was in the sum of Rs.2,27,503/- along with future interest @ 17.5 p.a. The Petitioner along after the Award was passed sometime in the year 2012 filed an Appeal before the Co-operative Appellate Court. The Co-operative Appellate Court as indicated above has set aside the award passed by the Co-operative Court having regard to the fact that there is an award passed by the Co-operative Court in the form of a money decree and since an amount of Rs.6 lacs is due from the Petitioner, directed the Petitioner to deposit the amount of Rs.1,50,000/- in the Co-operative Court and remanded the matter back to the Co-operative Court so as to afford an opportunity to the Petitioner. As indicated above it is the said order dated 4-10-2014 which is taken exception to by way of the above Petition.

3 It has come on record before the Co-operative Appellate Court that an amount of Rs.2,10,000/- has been recovered by the Respondent No.1 society from the salary of the Petitioner over a period of time, however the Co-operative Appellate Court having regard to the fact that in terms of the

award passed by the Co-operative Court, the amount due comes to about Rs.6 lacs directed the Petitioner to deposit the said amount of Rs.1,50,000/-.

3 The above Petition has come up for admission before a learned Single Judge of this Court on 6-1-2015. By an order passed on the said day, the Learned Judge directed that the dispute being No.1023 of 1999 to proceed without insisting upon the deposit of Rs.1,50,000/- as directed by the order of the Co-operative Appellate Court. It seems that after the remand, the trial has commenced before the concerned Co-operative Court. In view of the fact that the Petitioner was working as a wireman with the erstwhile Maharashtra State Electricity Board and has retired sometime in the year 2015 and since an amount of Rs.2,10,000/- has already been recovered from the Petitioner, in my view, it would be just and proper not to insist upon the pre-deposit to be made by the Petitioner. The said direction contained in the order of the Co-operative Appellate Court is accordingly set aside. The other directions are maintained. The concerned Co-operative Court is directed to hear and decide the dispute latest by 31-5-2017.

4 With the directions as aforesaid, the Writ Petition is disposed of.

[R.M.SAVANT, J]