

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4176 OF 2015

(Gulabrao s/o Eknath Kubade vs. The State of Maharashtra thr. Secretary, Ministry of Co-operation & Ors.)

AND

WRIT PETITION NO. 4178 OF 2015

(Vinayak s/o Baburao Kubade vs. The State of Maharashtra thr. Secretary, Ministry of Co-operation & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.
JUNE 21, 2016.**

Heard Shri S.U. Nemade, learned counsel for the petitioners, Shri N.S. Rao, learned AGP for respondent Nos. 1, 2, 3, 4 & 5 and Shri D.G. Patil, learned counsel for respondent No. 6.

Shri Nemade, learned counsel states that the grievance under Section 18 of the Maharashtra Money-Lending (Regulation) Act, 2014, (hereinafter referred to as the Act), is time barred inasmuch as Complainant – Awadhoot s/o Ramrao Wankhede – Respondent No. 6, in his complaint itself submitted the date of alleged transaction to be of the year 1997 and 1998. Without prejudice to his contention that it is not a money lending transaction, he points out that as per Section 18 of the Act, the transaction has to be within 15 years of the grievance i.e. application to Respondent No. 2.

Here, the application has been moved for the first time on 27.11.2014. Thus, it is apparently time barred.

He contends that even notice, therefore, could not have been issued to the petitioner – Gulabrao Eknath Kubade.

He contends that in Writ Petition No. 4178 of 2015, no transaction has been pointed out with the petitioner – Vinayak Baburao Kubade, still mechanically notice has been issued.

Shri Rao, learned AGP states that only show cause notice has been issued and after receipt of reply from the respective petitioners, appropriate decision shall be taken. He submits that because of stay granted by this Court, the said decision could not be reached.

Shri Patil, learned counsel for respondent No. 6 – Awadhoot Ramrao Wankhede, in both the matters, submits that first such grievance was made by Awadhoot in 2006. He further states that in any case, the disputed questions of fact can be looked into by Respondent No.2 – The District Registrar, after hearing the respective parties.

Respondent No. 2, after receipt of complaint, has to first examine the jurisdictional fact. If he finds that the grievance is belated, he can not issue notice to the petitioner. However, in the instant matter, the notice has already been issued. The petitioners have disclosed their defences to this Court.

In this situation, we permit the petitioners to file appropriate representation to Respondent No. 2, pointing out legal provisions and correct factual aspects. After hearing the petitioners as also complainant, Respondent No. 2 shall take fresh decision and find out whether the case of issuing the notice to respective petitioners is made out.

The petitioners shall file their representation within a period of four weeks from today. Thereafter, Respondent No. 2 shall complete hearing and pass suitable orders afresh within next three months.

With these directions and keeping all rival contentions open for consideration, we partly allow the petitions and dispose of the same. However, there shall be no order as to costs.

JUDGE

JUDGE

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