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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3779 OF 2017

Maroti Laxmanrao Jadhav
Age – Major, Occ – Service
R/o Bhavani Nagar, Sangvi,
Nanded, Taluka and District - Nanded

PETITIONER

VERSUS

1. Vij Kamgar Co-operative Credit Society Ltd. RESPONDENTS
Nanded, Through authorized Officer,
Maroti Kishanrao Pawar,
Age – 57 years, Occ – Service
R/o Nanded, Taluka and District – Nanded
2. Panjabrao Shankarrao Deshmukh (Died)
Through Legal Heirs
 - 2A. Smt. Surekha Panjabrao Deshmukh
Age – Major, Occ – Household
 - 2B. Vishal Panjabrao Deshmukh
Age – Major, Occ – Education

Both R/o Dayanand Nagar,
In front of Dal Mill, Nanded
Taluka and District – Nanded
3. Narayan s/o Govindrao Dawalbaje,
Age – Major, Occ – Retired
R/o Near Rajhans Nisargopchar Kendra
Shiv Vijay Colony, Taroda Bk.
Nanded, Taluka and District – Nanded

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Mr. Ram S. Shinde, Advocate for the petitioner

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 3rd JULY, 2017

ORAL JUDGMENT :

1. Heard learned advocate for the petitioner.
2. The petitioner – defendant No.1 in C.C. No.168 of 2013 instituted by present respondent No. 1 before Co-operative Court at Nanded, against present petitioner and two others, purportedly aggrieved by order dated 19th December, 2016 rejecting application Exhibit-92 seeking to arraign the then Cashier Balasaheb Hanmatrao Deshmukh as a party defendant is before this court.
3. Learned advocate Mr. Ram Shinde, vehemently submits that practice and procedure which had been followed was also followed in respect of amount allegedly misappropriated by the petitioner and report thereof had been submitted to the then cashier of the society. However, onward action based on the report and record was the responsibility of the cashier, which does not appear to have been discharged. Entire record is in possession of the cashier and the society. He refers to the averments in defence in written statement in respect of the same and submits that having regard to the same, Exhibit-92 ought to have been allowed, yet the court has refused the

request. Learned advocate submits that in the circumstances, the then cashier would be a necessary party, as correct facts involved would come to the fore by involving the cashier.

4. Perusal of the impugned order shows that the court has taken into account section 94 (3) (c) of the Maharashtra Co-operative Societies Act, 1960 enabling the court to add a person as party, for effectual and complete adjudication for settling all questions involved. The court has considered contention of the petitioner that report of distribution of share dividend to cashier had been submitted and record is maintained accordingly. In the circumstances, the court has considered that said record would be in possession of the society for which cashier may not be a necessary party and as such, rejected application Exhibit-92.

5. Looking at the reasons appearing under the order, as aforesaid, it does not appear that reasons given by the court are not proper or plausible. The court has further observed that the petitioner should discharge his burden about reports have been made to the cashier. Further, the plaint does not disclose any involvement of the proposed party in distribution of share dividend.

6. In the circumstances, the petition does not appear to give

rise to any circumstance for intervention at this juncture. Writ petition, as such, stands disposed of keeping in view section 105 of the Civil Procedure Code, leaving open to petitioner to take recourse accordingly. No costs.

[SUNIL P. DESHMUKH, J.]

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