IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8878 OF 2016

Hina Shahin Co-operative Urban Bank Ltd.
Through its Liquidator ..PETITIONER

VERSUS

Mohammad Takiyoddin Abdul Ajij
Through his son
Khusaro Ahmad Mohamad Takiyoddin ..RESPONDENT

....

Mrs. J.P. Reddy, Advocate h/f Mr. M.P. Gude, Advocate for petitioner.
Mr. H.V. Tungar, Advocate for respondent.

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CORAM : M.S. SANKLECHA, J.
DATED : 12th APRIL, 2017

ORDER :

1. This petition challenges the orders dated 28th February, 2014 and 30th June, 2015 passed by the Co-operative Court, Aurangabad and the Maharashtra State Co-operative Appellate Court, Mumbai at Aurangabad respectively. The impugned order dated 28th February, 2014 while allowing the dispute filed by the respondent challenging the notice issued under Section 105 of the Maharashtra Co-operative Societies Act (hereinafter referred to as 'Act') did observe that before issuing of notice, the petitioner

ought to have called the respondent and reconciled the amounts claimed to have been repaid by the respondent and issue notice thereafter recover in accordance with law. However the operative portion of the order does not contain such directions. The order passed in appeal being impugned order dated 30th June, 2015 dismissed the petitioner's appeal.

2. It is an agreed position between the parties that the issue arising herein was subject matter of consideration in Writ Petition Nos. 8332 of 2016 and 8334 of 2016 by this Court in it's order dated 16th January, 2017.

3. In the above Writ Petition No. 8332 of 2016 (supra) on facts identical to those arising here, this Court had directed the petitioner - bank to consider the documents/evidence produced/to be produced by respondent of repayment done and reconstruct the loan. Thereafter to recover the amounts, if any payable by the respondent, in accordance with law.

4. In the above view, the petitioner - liquidator is directed to consider the documents/evidence if any produced by respondent before it evidencing payment and on consideration of the same, reconstruct the loan

account and if any amount is still payable by respondent, then the petitioner to proceed against the respondent for recovery in accordance with law.

5. This petition is disposed of with the above clarification.

(M.S. SANKLECHA, J.)

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