

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.5583 OF 2017

IN

WRIT PETITION NO.2469 of 2017

Web Galaxy,
Through its Proprietor,
Shri Pratap Shankarrao Supekar,
Age: 42 years, Occu: Business,
R/o: Plot No. 27, Ganesh Colony,
Near Viaduwadi, Savedi,
Tq. & Dist. Ahmednagar & others **...Applicants..**

Versus

The State of Maharashtra,
Through its Secretary,
Co-operation and Textile Department,
Mantralaya, Mumbai-32 & others **...Respondents...**

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CIVIL APPLICATION NO.5582 OF 2017

IN

WRIT PETITION NO.2470 of 2017

Shrikrushna Developers
Through its Partner,
Hema Suresh Supekar,
Age: 44 years, Occu: Business,
R/o: Plot No. 31, Anand complex,
Savedi, Tq. & Dist. Ahmednagar
& others **...Applicants..**

Versus

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The State of Maharashtra,
Through its Secretary,
Co-operation and Textile Department,
Mantralaya, Mumbai-32 & others ...Respondents...

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CIVIL APPLICATION NO.5579 OF 2017

IN

WRIT PETITION NO.2471 of 2017

Zevar Jewelers,
Through its Proprietor,
Shri Jainsukh Suremal Bchhavat,
Age: 52 years, Occu: Business,
R/o: Suyog Bunglow Wakodi Road,
Adjacent to Sagar Videocon,
Tq. & Dist. Ahmednagar & others ...Applicants...

Versus

The State of Maharashtra,
Through its Secretary,
Co-operation and Textile Department,
Mantralaya, Mumbai-32 & others ...Respondents...

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CIVIL APPLICATION NO.5581 OF 2017

IN

WRIT PETITION NO.2472 of 2017

Shri Sales Corporation,
Through its Proprietor,
Shri Onkar Dnyaneshwar Supekar,
Age: 23 years, Occu: Business,
R/o: Plot No. 27, Ganesh Colony,
Near Viaduwadi, Savedi,
Tq. & Dist. Ahmednagar & others ...Applicants...

Versus

The State of Maharashtra,
Through its Secretary,
Co-operation and Textile Department,
Mantralaya, Mumbai-32 & others ...Respondents...

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Shri Ajay G. Talhar, Advocate for applicants.
Shri S.R. Yadav, AGP for the State.
Shri R.N. Dhorde, Senior Advocate i/b Shri V.R. Dhorde,
Advocate for respondent no.4.

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CORAM: M.S. SANKLECHA, J.

DATE: 20.04.2017

ORDER :

1] These four civil applications have been taken out
by the applicants seeking the following relief:-

- "A) This civil application may be allowed.
- B) The order dated 21.02.1017 passed in Writ
Petition No. 2469/2017, 2470/2017, 2471/2017
and 2472/2017 may kindly be modified and the
respondent bank may kindly be directed to
adjust the amount of Rs.40 Lakhs (Rs. Ten Lakhs
in each account) kept in Fix Deposit with the
respondent No.4 Society in the respective loan
account and further the applicants be permitted
to deposit the amount of Rs. 25 Lakhs (Exhibit

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"A") directly with the respondent No.4 Society within period of one week from today.

C) Any other suitable and equitable orders may be kindly passed in favour of the present petitioner."

2] The civil applications seek modification of the order dated 21.2.2017 of this Court, which reads as under :-

"1] Heard learned counsel for the petitioners. Issue notice to the respondents for final disposal at admission stage, keeping open the issue of maintainability of these petitions, in view of availability of alternate remedy under Section 152 of the Maharashtra Co-operative Societies Act, 1960, returnable on 7th March 2017. Learned A.G.Ps. waive service for respondent No.1.

2] Meanwhile, subject to the petitioners depositing in this Court an amount of Rs.1 Crore within a total period of four months from today, in two installments of Rs.50 Lakhs each, with first installment of Rs.50 Lakhs to be deposited in this Court latest by 20th April 2017 and the second installment of Rs.50 Lakhs to be deposited latest by 19th June 2017, there shall be ad-interim stay to the effect and operation of the recovery

certificates.

3] It is made clear that, the time limit set by this Court is final and there shall be no further extension given by this Court and that, in case of any single failure to comply with this order within the deadline set by this Court, these petitions shall stand dismissed without reference to the Court."

3] The civil applications state that the amount of Rs.50,00,000/- in the aggregate in all four writ petitions had to be deposited in this Court by today i.e. 20.4.2017 as directed by this Court on 17.2.2017. The applications state that the amount of Rs.40,00,000/- (in the aggregate) in all four petitions are lying in fixed deposit with respondent no.4 - society. This amount be adjusted against Rs.50,00,000/- to be deposited in Court and the applicants will deposit amount of Rs.25,00,000/- within a week from today in the Court. This amount of Rs.25,00,000/- could not be deposited, as the above amount was freezed by the Federal Bank Ltd. and is to be released today. Therefore, the modification as prayed for.

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4] It is admitted by Mr.Talhar that when the order dated 21.2.2017 was passed by this Court, on that date also an amount of Rs.40,00,000/- was lying with the respondent no.4 - society in a fixed deposit. Notwithstanding this fact, this Court directed the applicants to deposit an amount of rupees one crore in this Court within a period of four months from 21.2.2017. The first installment of Rs.50,00,000/- being on or before 20.4.2017 and the second & final installment of Rs.50,00,000/- not being later than 19.6.2017. Notwithstanding the above fact of deposits with the respondent society, this Court had categorically directed deposit of an amount of Rs.50,00,000/- in this Court latest by today. The applicants thereafter have made arrangement to deposit only Rs.25,00,000/- and the same, according to them, cannot be deposited as the amount of Rs.25,00,000/- was freezed by the Federal Bank Ltd. in which it was deposited. The applicants do not state the date and the reason why the amount was freezed by the Federal Bank except stating that due to some technical objection / queries raised by the bank.

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5] However, the Exhibit 'B' annexed to the civil applications is a statement of account of the applicants issued by the Federal Bank indicating that Rs.25,00,000/- was deposited in the bank only on 19.4.2017. Therefore, it appears, no date of freezing is mentioned in the applications. This itself raises a question of the *bona-fides* of the applicants. If the applicants were honest in their attempt to honour the order of this Court dated 21.2.2017, they would have made necessary arrangements or at least attempted to make arrangements to deposit Rs.50,00,000/- in this Court before today. In fact, the civil applications very clearly reveal that the applicants have made arrangement only to deposit Rs.25,00,000/- and are now seeking to re-argue the *ad-interim* relief, which was granted without hearing the respondent no.4 – society, asking them to deposit Rs.50,00,000/- on 21.2.2017. These applications for modification are made when there are admittedly no change in facts from that existing on 21.2.2017. The only subsequent event is the negligence of the applicants to make arrangements to deposit Rs.50,00,000/- by 20.4.2017, as directed by the Court.

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In fact, the reasons set out in the civil applications do not warrant any modification of the order dated 21.2.2017 as there is no explanation as to why the categorical order of this Court could not be complied with even when it was a self operating order clearly pointing out that no extension of time to deposit would be given and the petitions will stand dismissed without reference to the Curt.

6] In the above view, the reasons set out in the civil applications do not warrant any further extension of time, particularly in view of the categorical direction of this Court in paragraph no.3 of its order dated 21.2.2017. These applications under the garb of modification are in fact an attempt to review the order dated 21.2.2017 as there is no change in facts and law as existing on 21.2.2017 (when order was passed) and today. Further, the casual attitude on the part of the applicants to the orders of this Court is evident and explicit from the fact that the civil applications have been taken out today i.e. on the last date seeking extension of time when the last date to deposit the amount, as directed by this Court, was to expire today.

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7] Hence, all the four civil applications are dismissed.

8] At this stage, Mr.Talhar requests for the stay of this order. I see no reason to stay this order in the facts of the present case.

(M.S. SANKLECHA, J.)