

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7496 OF 2016

KISHOR GURUPADAPPA HUDGE
VERSUS
THE DIVISIONAL JOINT REGISTRAR
CO-OPERATIVE SOCIETIES LATUR AND OTHERS

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Advocate for Petitioner : Shri Mukhedkar Amit A.
AGP for Respondents 1 to 3 : Shri Tambe S.K.
Advocate for Respondent 4 : Shri Urgunde S.P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 19, 2017

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PER COURT :-

1. The petitioner is aggrieved by the order dated 16.5.2016 delivered by the Divisional Joint Registrar - respondent No.1 herein, by which, the Appeal No.274 of 2015 filed by respondent No.4 has been partly allowed and the proceedings have been remitted to respondent No.2 - District Deputy Registrar for a fresh hearing.

2. I have considered the strenuous submissions of the petitioner, learned AGP and the learned Advocate for respondent No.4 / original complainant.

3. The complaint filed by respondent No.4 is purportedly 15

years after the completion of the sale transactions vide sale deeds dated 2.6.1998 and 29.4.1999. There is no dispute that on the strength of these two documents, the sale transaction was completed. Grievance of the original complainant / respondent No.4 is that the act of the petitioner amounts to money lending under the Maharashtra Money Lending (Regulations) Act, 2014. Section 18(1) provides for a limitation of 15 years and no complaint after 15 years from the date of the transaction is to be entertained, is the submission of the learned counsel for the petitioner.

4. Respondent No.3 - Assistant Registrar had held in favour of the petitioner concluding that the Complaint was filed by respondent No.4 on 23.6.2014. Eventually, before respondent No.1 - Divisional Joint Registrar, the record revealed that there was a complaint lodged 'on-line' on 6.2.2014 with the District Deputy Registrar, Cooperative Societies and the Assistant Registrar, Cooperative Societies, Lohara. Respondent No.4 in his appeal before respondent No.1, under Section 18(4) appears to have stated that an 'on-line' complaint was filed. If the on-line complaint is a fact, then it would mean that the complaint was lodged within 15 years from the transaction which was completed on 29.4.1999.

5. The petitioner submits that there is no such on-line complaint and it is only on 23.6.2014 that a written complaint was lodged.

6. It appears from the impugned judgment of respondent No.1 that respondent No.3 has not noticed the on-line complaint dated 6.2.2014. Respondent No.1 has, therefore, pragmatically, referred the matter back to respondent No.2 - District Deputy Registrar, being a responsible authority so as to trace out the existence of the first complaint filed by respondent No.4 against the petitioner, whether on-line or in writing. If this investigation is carried out, it would be in the interest of both the litigating sides.

7. As such, I do not find that the impugned order dated 16.5.2016 could be termed as being perverse or erroneous or likely to cause gross injustice to the petitioner, keeping in view the law laid down by the Honourable Apex Court in the matter of Syed Yakoob Vs. K.S. Radhakrishnan and others [AIR 1964 SC 447] and Surya Dev Rai Vs. Ram Chander Rai [(2003) 6 SCC 682].

8. Hence, this petition is dismissed.

9. Learned Advocates for the litigating sides submits that they would appear before respondent No.2 on 11.8.2017 at 3.00 pm. Request is accepted. Respondent No.2 need not issue formal notices.

10. Needless to state, respondent No.2 shall investigate on the basis of it's records and in the light of the observations of the Divisional Joint Registrar as well as after considering the submissions of the litigating sides, as to whether an on-line complaint dated 6.2.2014 exists. All the contentions of the litigating sides are kept open. If the complaint is within 15 years from the date of the transaction, same shall then be considered on it's merits.

(RAVINDRA V. GHUGE, J.)

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