

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11979 OF 2016
(The Mah.State Co.op.Housing Finance Corporation Ltd., and
another Vs. Jai Vishwabharti Sahakari Griha Nirman Sanstha Ltd.,
Aurangabad)

Mr.N.R.Bhavar, Advocate for the petitioners.

CORAM : RAVINDRA V. GHUGE, J.)

DATE : 08/12/2017

PER COURT :

1. The petitioners are aggrieved by the order dated 21/04/2016 only to the extent of the directions of the Maharashtra State Co-operative Appellate Court which has directed the petitioners to deposit the entire recovery amount as ordered by the Co-operative Court, by condoning the delay.

2. Learned Advocate for the petitioners strenuously submits that notwithstanding the fact that the petitioners are financially very strong, while condoning the delay, an amount towards costs could have been imposed by the Appellate Court and the direction to deposit the entire amount cannot be issued. My attention is drawn to the grounds formulated in the memo of the petition and it is submitted that the impugned order is perverse and unsustainable.

3. I have considered the strenuous submissions of the learned Advocate for the petitioners and have gone through the petition paper book with his assistance.

4. The disputant before the Co-operative Court was a tiny society which has sought a recovery of an amount of Rs.50,500/- from these petitioners. The claim was put forth in 2014 and the same pertains to the period from about 1994 onwards. The Co-operative Court directed the depositing of Rs.50,500/- alongwith interest @ 12% p.a.

5. Grievance of the petitioners is that an ex-parte judgment has been delivered by the Co-operative Court. Per contra, it is noted from the judgment of the Co-operative Court that these petitioners appeared in the matter, they filed their written statement at Exh.17 and admitted the contents of paragraph Nos. 1 to 6, 8 and 9 of the claim made by the respondent, as being true and correct. If the petitioners did not advance final arguments in the matter, they need to blame themselves for their conduct.

6. The Hon'ble Apex Court has laid down the law in the matter of Syed Yakoob Vs.K.S.Radhakrishnan and others [AIR 1964 SC 477].

and in the matter of Surya Dev Rai Vs. Ram Chander Rai [2003(6) SCC 682] that this Court should exercise its supervisory jurisdiction, if the impugned order appears to cause grave injustice to the petitioners. I find that the Co-operative Appellate Court has passed an equitable order and the same can not be termed as being perverse or erroneous.

7. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)