

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 12640 OF 2016

HIMANSHU LALJI LODHYA AND ANOTHER
VERSUS
THE PACHORA PEOPLES CO OPERATIVE BANK LTD THROUGH ITS CEO
JALGAON AND OTHERS

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Advocate for the Petitioners : Shri Barde Parag Vijay.
Advocate for Respondent No.1 : Shri A.R.Tapse h/f Shri P.D.Suryawanshi.
AGP for Respondents 3 and 4 / State : Shri P.K.Lakhotiya.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 19th December, 2017

Per Court:

1 It is pointed out that Respondent No.2 is not served by the court notice as she is not available on both addresses appearing on record in several rounds of litigation.

2 However, Shri Barde, learned Advocate for the Petitioners submits, by tendering a copy of the order dated 29.09.2015 passed by this Court in Criminal Application No.4980/2015, that Respondent No.2 had approached this Court indicating both addresses, which are identical to those set out in the cause title of this petition. A copy of the order dated 29.09.2015 is taken on record and marked as "X-1" for identification.

3 Shri Barde then submits a photostat copy of the speed post envelope, by which, he had sought to serve Respondent No.2 in this petition. The same is also taken on record and marked as "X-2" for identification. It appears from this document that Respondent No.2 has refused to accept the notice issued by the learned Advocate for the Petitioners.

4 Taking into account the documents at X-1 and X-2, I am of the view that service is complete on Respondent No.2.

5 The Petitioners are aggrieved by the order of the Divisional Joint Registrar, Cooperative Societies, Nashik dated 04.05.2016 delivered in Revision Application No.R-155/2014. By the said order, the said Authority has directed the District Deputy Registrar, Cooperative Societies, Jalgaon to decide the application under Section 101 of the Maharashtra Cooperative Societies Act, 1960 in Case No.364/2014 on it's own merits.

6 Shri Barde has strenuously criticized the impugned order and has drawn my attention to the eleven grounds formulated by him in the memo of the petition.

7 The learned Advocate for the Respondent No.1 Bank has supported the impugned order.

8 It appears that the District Deputy Registrar, Cooperative Societies, Jalgaon, while dealing with the application under Section 101, has concluded that there are several contentious issues and hence, he

cannot decide the said application. He has used the Marathi word "गुंतागुंतीचे" ("Guntaguntiche") to indicate that the contentions of the litigating sides are complicated. I do not find that this could be the reason for abdicating powers by the said Authority. He has not concluded that any of the issues raised by the litigating sides before him are beyond his jurisdiction.

9 The Revisional Authority, by the impugned order, has, therefore, concluded that a casual order was passed by the District Deputy Registrar and he has abdicated his powers by not deciding the application under Section 101. By assigning reasons, the Revisional Authority has remitted the matter back to the District Deputy Registrar for a decision on the application under Section 101. I do not find that the impugned order could be termed as being perverse or erroneous.

10 Considering the above, this Writ Petition is dismissed.

11 Nevertheless, all contentions of the litigating sides are obviously kept open as they have not been gone into by the District Deputy Registrar while dealing with the application under Section 101. The said Authority shall consider all the contentions of the litigating sides and shall deal with them within the ambit of Section 101.

12 The Petitioners as well as Respondent No.1 agree to appear before the District Deputy Registrar in Application No.364/2014 on

12.01.2018 at 11:00 am. The District Deputy Registrar shall consider the said application afresh by passing a reasoned order. The litigating sides shall extend cooperation to the District Deputy Registrar for the expeditious disposal of the said application.

kps

(RAVINDRA V. GHUGE, J.)