IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11560 OF 2015

Ajanta Urban Co-operative Bank Ltd.,
Having Its branch Office at Ousmanpura,
Aurangabad through It's Manager
Dharmendra S/o Digambar Puranik
Age: 44 years, occu: Service Petitioner

Versus

1 The State of Maharashtra,
through the Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya, Mumbai

2 The Divisional Joint Registrar,
Cooperative Societies,
Anjuman Banglow, Adalat Road,
Aurangabad

3 Nandkishor S/o Rameshwar Charkha,
Age: 35 years, ocu: Agri
R/o Pimpalner, At present Vipra Nagar,
Beed Respondents

Mr. S.G. Dodya advocate for the petitioner
Mr. S.R. Yadav, Assistant Govt. Pleader for Respondent No.1 and 2
Mr. A.M.Gholap advocate for respondent No.3.

CORAM :S.B. SHUKRE, J

(Date : 7TH February, 2017.)

ORAL JUDGMENT

1 Heard.

2 Rule. Rule made returnable forth with and heard finally by consent of the learned counsel for the parties.

3 The impugned order dated 17.5.2014 though shorter in words is quite eloquent in its reasoning. It states that, the challenge in the revision application, filed under section 15 is founded upon the ground that, the respondent No.3 has been improperly added as party and therefore, the mandate of section 154(2)(A) in it's strict sense is not applicable to the revision application filed by respondent No.3.

4 On going through the recovery certificate issued on 31.12.2009, I find that, firstly the certificate deals with addition of respondent No.3 as party to the proceedings and directs that respondent No.3 be added as necessary party and then recovery certificate straightway deals with the issue of grant of certificate of recovery and grants recovery certificate as well. It is a composite order and it was absolutely essential for the authority to have first adjudicated upon the issue of addition of respondent No.3 as necessary party by passing a separate order. If the recovery officer has not done so, there was no option left for respondent No.3 but to challenge the order, which directly affects respondent No.3 and that is what Respondent No.3 has done in

the instant case. Therefore, the view taken by the Revisional Court cannot be said to be perverse or arbitrary or against the settled principles of law.

5 Learned counsel for the petitioner submits that, at the time of filing of the revision application, challenging any kind of order, it is necessary that the revision applicant deposits at-least 50% of the total amount of recovery dues and in support, he places reliance on the case of **Grater Bombay Co-operative Bank Ltd. And another versus Dhillon P.Shah and others** (AIR 2004 BOMBAY 108).

6 As a matter of general principle, the statement can be taken as correct. But it would be true only when the recovery certificate itself is challenged or when the steps taken as a consequence to issuance of recovery certificate are challenged. In the afore-stated case, what was challenged by filing revision application was some consequential steps taken in pursuance of the recovery certificate, which fact is distinguishable from the facts of the present case and which have already been stated in the earlier paragraph. Therefore, in my view, the above stated case would not render any assistance to the case of the petitioner, in the instant matter.

7 In the circumstances, I find no merit in the petition. It deserves to be dismissed with costs.

8 Writ petition is dismissed with costs.

9 Rule is discharged.

(S.B. SHUKRE, J)

vbd