

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 542 OF 2017

SHRI. B. Y. SAWANT AND 6 ORS., ... Petitioners
Versus
THE MULGAO SHIRGAO ADVALPAL
V.K.S.S. SOCIETY LTD., THR. ITS
BRANCH MANAGER AND 8 ORS., ... Respondents

Mr. Ashwin D. Bhobe, Advocate for the Petitioners.
Mr. Vinayak K. Narvekar, Advocate for the Respondent No. 1.

Coram:- C. V. BHADANG, J.

Date:- 31st July, 2017

ORAL ORDER:

On hearing the learned Counsel for the parties for sometime,
I do not find that any case for interference is made out.

2. The Registrar's Nominee had instituted proceedings for misfeasance under Section 82 of the Goa Co-operative Societies Act, 2001 (Act, for short), against the petitioners and respondent nos. 2 to 9. The Registrar's Nominee by an order dated 11.08.2014, held the petitioners alongwith respondent nos. 2 to 9, to be jointly and severally liable to pay to the respondent no. 1/Society, the cash shortage of Rs.38,289 and trading loss of Rs.1,10,408/- alongwith costs of the proceedings. This order was challenged only by the respondent no. 2, who was then a Secretary of the Society, before the Co-operative Tribunal.

3. The learned Co-operative Tribunal by its judgment and order dated 13.02.2017, has partly allowed the appeal. The impugned order is modified only to the extent of interest on cash shortage, to Rs.37,625/- instead of Rs.38,289/-. In other words, the Co-operative Tribunal has not interfered with the finding that the petitioners alongwith respondent nos. 2 to 9 are jointly and severally liable to make good the loss.

4. The only contention raised on behalf of the petitioners is that by an affidavit dated 26.04.2005, the respondent no. 2 had taken upon himself the responsibility to make good the loss. It is submitted that the petitioners may be entitled to recover the said amount from the respondent no. 2, in the event, they are required to pay the same.

5. It appears that the petitioners did not challenge the order of the Registrar's Nominee, although, there was a finding recorded and the operative order shows that the petitioners were held to be jointly and severally liable to make good the loss. Be that as it may, as the Members of the Managing Committee, the petitioners cannot abdicate from the responsibility in the matter. I have carefully gone through the impugned orders passed and I find that no case for interference is made out. The petition is accordingly dismissed. It is, however, made clear that this shall not affect the remedy of the petitioners, if any, available in law

against the respondent no. 2.

C. V. BHADANG, J.

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