

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION STAMP NO.9123 OF 2015

Rajaram Shankar Suryawanshi and ors. ...Petitioners

Versus

Ambika Nagri Sahakari Patsanstha Ltd. & ...Respondents
ors.

Kavita M.Pawar for the Petitioners
Mr.Sandeep Pingale for the Respondent.

CORAM: M.S.KARNIK,J.
DATED: 2nd February 2017

PC:-

1. On 28th of April 2015 this Court had issued notice to the Respondents. Paragraph no.3 of the said order reads thus:

“There is a concurrent finding recorded by the Courts below as regards the liability of the Petitioners to pay the amount claimed by the Respondent No.1 Credit Society. The Award passed by the Cooperative Court No.1 Sangli dated 19/07/2005 is in the sum of Rs.1,03,010/- with interest at the rate of 20%

p.a. on Rs.85,000/- which is the principal amount. The said Award of the Co-operative Court has been confirmed by the Co-operative Appellate Court. The grievance of the Petitioner is as regards the rate of interest which according to the Petitioner is excessive, having regard to the fact that the loan was availed for the agricultural purposes viz. for purchasing tractor with trolley. Hence the parties are put to notice that the above Writ Petition may be heard and disposed of finally at the stage of admission. In the meantime there would be ad-interim relief in terms of prayer clause (b) on the condition that the Petitioner deposits an amount of Rs.2,50,000/- in this Court before the returnable date. If the amount is not deposited the interim order would automatically stand vacated and this Court would also be constrained to pass appropriate orders in the Writ Petition.”

2. Today, the Respondents have appeared pursuant to the service of notice. The learned counsel for the Petitioners makes a statement that the Petitioners have deposited an amount of Rs. 2,50,000/- in this Court in terms of the interim order dated 28th April 2015 passed by this Court.

3. The learned counsel for the Petitioners has brought to my notice that the tractor in respect of which the loan was

availed was auctioned and sold for a sum of Rs.75,000/- by Respondent No.1. The Petitioners have also deposited a sum of Rs.85,000/- as per the order dated 19th December 2012 passed by the Appellate Court.

4. In view of the concurrent findings recorded by the two Courts below, I do not see any infirmity in the view taken by the Courts below as regards the liability of the Petitioners to pay the amount claimed by Respondent No.1-Credit Society. The Petitioners further contended that the loan was taken on 31st March, 1992. As of today an amount of Rs.4,10,000/- has been realised towards the outstanding claim. Considering the fact that the loan was availed for agricultural purposes i.e for purchasing a tractor with trolley, in the facts of the case, the order passed by the Trial Court directing the Petitioner to pay interest @ 20% per annum on Rs.85,000/- with effect from 23rd January 1995 till its actual realisation, in my opinion, is excessive.

5. In the interest of justice, therefore, I am inclined to interfere with the quantum of interest. The interest of justice

would be served if the operative part of the Award dated 19th July 2005 of the Trial Court is modified to the extent that instead of "20% *per annum*", the interest be reduced to 8% per annum . Order accordingly.

6. The Respondent No.1 is at a liberty to withdraw the amount deposited with interest, if any, in this Court as well as Appellate Court and the same be adjusted towards the satisfaction of awarded amount. Excess amount, if any, be refunded by the Respondent No.1 to the Petitioner. The Respondent No.1 is also free to execute the Award if some amount is still found outstanding even after adjusting the amount of Rs.4,10,000/- towards the liability.

7. With this modification, the Writ Petition is disposed of.

(M.S.KARNIK,J)