

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12538 OF 2016

Mr. Chandrahas Vishwanath Ray and another ..Petitioners
Versus

The Deputy Registrar,
Co-operative Societies and others

Mr. A. M. Saraogi for the Petitioners.
Mr. S. H. Kankal, AGP for the Respondent No.1.
Mr. B. V. Samant for the Respondent No.2.

CORAM : R. M. SAVANT, J.
DATE : 15th MARCH, 2017

P.C.

1 The Petitioners seek to challenge the certificate dated
26.11.2015 issued under Section 101 of the Maharashtra Co-operative
Societies Act, 1960 (For short “the MCS Act”). In view of the fact that a
remedy by way of a Revision under Section 154 of the MCS Act is
available to the Petitioners, it is not necessary to entertain the above
Petition.

2 The Learned Counsel appearing on behalf of the Petitioners
Mr. A. M. Saraogi states that to avail of the said remedy, the Petitioners
would have to deposit 50% of the amount of the recoverable amount in
respect of which credit should be given to the Petitioners for the amounts
deposited by the Petitioners with the Respondent No.2 credit society post

the issuance of the said certificate dated 26.11.2015 and that the Petitioners should also be granted a reasonable time to deposit the balance amount so as to make up the said 50% to avail the remedy by way of a Revision.

3 In respect of the amounts deposited by the Petitioners post the issuance of the recovery certificate, the Petitioners have reproduced a table at page Nos.5 and 6 of the Petition. The amounts deposited post the issuance of the certificate are on page No.6 of the Petition. The Respondent No.2 credit society has also in its affidavit in reply reproduced a table showing the amounts deposited by the Petitioners pre and post the issuance of the certificate dated 26.11.2015. In so far as the amounts deposited post issuance of the said certificate they are from Item Nos.7 to 11 of the statement as appearing in the affidavit in reply filed on behalf of the Respondent No.2. The total of the said amount comes to Rs.4,60,100/-. Hence the Petitioners would have to deposit an amount of Rs.12,59,000/- so as to make the total deposit as Rs.17,21,000/- which is 50% of the amount due from them as on 28.02.2017 which is Rs.34,42,000/-. Hence the following directions :-

- I) The Petitioners to deposit the said amount of
Rs.12,59,000/- with the Respondent No.2 credit

society within eight weeks from date.

II) The Petitioners to file the Revision Application on deposit of the said amount alongwith an application for condonation of delay. In so far as the said application for condonation of delay is concerned, the said application would be considered on its own merits and in accordance with law. However the period granted by this Court to deposit the amount in terms of clause (I) as above would not be held against the Petitioners.

III) If the amount is not deposited in terms of the instant order, then the Revision Application would not be maintainable.

IV) If the amount is deposited and if the application for condonation of delay is entertained and allowed, then the Revision Application would be tried on its own merits and in accordance with law.

V) The ad-interim relief which is operating in the above Petition would continue to operate for a period of

eight weeks i.e. upto 07.06.2017 and if the amount is deposited, then the Petitioners would be entitled to apply for interim reliefs before the Revisionary Authority which application would also be considered on its own merits and in accordance with law. The same however would be contingent upon the delay being condoned.

4 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]