

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

WRIT PETITION NO. 1930 OF 1998

A.RAHIM SK.GULAB
VERSUS
NUTAN KANDARI V.K.S.S.L., KANDARI AND ORS.

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Advocate for the Petitioner : Shri V.T.Choudhary.
Advocate for Respondent 1 : Shjri A.VRakh h/f Shri G.V.Wani.
AGP for Respondent 4 : Shri S.N.Morampalle.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th January, 2018

Per Court:

1 I have heard the learned Advocates for the respective sides.

By this petition, the Petitioner has put forth prayer clause (B) as under:-

"B) To issue appropriate writ, direction or order to quash and set aside the order passed by the President, Maharashtra Cooperative Appellate Court, Mumbai dated 3rd April, 1998 passed in Appeal No.130/1998, and further to restore the order passed by the Judge, Cooperative Societies, Jalgaon dated 24.02.1998 passed below Exhibit-5 in Dispute bearing No.J/42 of 1998."

2 While admitting this petition, this Court has passed an order on 01.12.1998 which reads as under:-

*"Heard all the learned advocates for their respective parties.
Rule."*

Interim order in terms of prayer clauses C and D subject to the following conditions:-

- (i) The petitioner shall deposit with the Respondent No.3 Bank a sum of Rs.50,000/- within two months from today.*
 - (ii) The petitioner shall also pay to the Bank a sum of Rs.12,000/- every month towards the decretal amount, without fail on or before 10th day of every month till final amount is fully paid in Case No.301/1993.*
 - (iii) Any two defaults in making payment of installment would entitle the Bank to execute the decree.*
 - (iv) In view of the above order, the Bank shall release the Truck forthwith after receiving the first installment of Rs.12,000/-.*
 - (v) The petitioner shall not create any third party interest in the Truck or alienate it in any manner.*
 - (vi) The above order is only by way of interim arrangement and without prejudice to the rights and contentions in the Case No.42/1998 pendig before the Cooperative Court, Jalgaon.*
- It is made clear that after receipt of the amounts as above, the Society/ Bank shall not deposit the cheques handed over to it by the Petitioner."*

3 It, therefore, appears from the interim order passed by this Court reproduced as above that the Petitioner was directed to deposit Rs.50,000/- with Respondent No.3 Bank within two months and was further directed to deposit Rs.12,000/- per month towards the decretal amount. In the face of two defaults, the Bank was permitted to execute the impugned decree. Based on these conditions, the truck was released after payment of the first installment.

4 I find that considering the interim order passed by this Court

on 01.12.1998, the entire dispute between the parties has been resolved and the Petitioner is not aggrieved by the conditions imposed on him by the interim order.

5 Considering the above, this Writ Petition is partly allowed in terms of the interim order dated 01.12.1998. Rule is made partly absolute accordingly.

kps

(RAVINDRA V. GHUGE, J.)