

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

WRIT PETITION NO. 4090 of 2018

Prakash S/o Sitaram Patil,
age 60 years occupation agriculture
R/o Dongaon Taluka Yawal District Jalgaon. **...Petitioner**

VERSUS

1. Yuvaraj Chudaman Badgujar
age 60 years occupation money lending, agriculture
R/o Chincholi Taluka Yawal District Jalgaon.
2. The State of Maharashtra
through the Secretary,
Ministry of Co-operative Department,
Mantralaya, Mumbai.
3. The Assistant Registrar,
Office of the Assistant Registrar,
Co-operative Societies,
Taluka Yawal District jalgaon.
4. The District Deputy Registrar,
office of the District Deputy Registrar,
Jalgaon District Jalgaon. **...Respondents**

WRIT PETITION NO. 4091 of 2018

Prakash S/o Sitaram Patil,
age 60 years occupation agriculture
R/o Dongaon Taluka Yawal District Jalgaon. **...Petitioner**

VERSUS

1. Ramesh S/o Shankar Badgujar
age 55 years occupation money lending, agriculture
R/o Sakali Taluka Yawal District Jalgaon.
2. The State of Maharashtra
through the Secretary,
Ministry of Co-operative Department,
Mantralaya, Mumbai.

3. The Assistant Registrar,
Office of the Assistant Registrar,
Co-operative Societies,
Taluka Yawal District Jalgaon.
4. The District Deputy Registrar,
office of the District Deputy Registrar,
Jalgaon District Jalgaon.

...Respondents

WRIT PETITION NO. 8009 of 2018

Surekhabai Prakash Patil
age 52 years occupation household
R/o Dongaon Taluka Yawal District Jalgaon.

...Petitioner

VERSUS

1. Yuvaraj Chudaman Badgujar
age 60 years occupation money lending, agriculture
R/o Chincholi Taluka Yawal District Jalgaon.
2. The State of Maharashtra
through the Secretary,
Ministry of Co-operative Department,
Mantralaya, Mumbai.
3. The Assistant Registrar,
Office of the Assistant Registrar,
Co-operative Societies,
Taluka Yawal District Jalgaon.
4. The District Deputy Registrar,
office of the District Deputy Registrar,
Jalgaon District Jalgaon.

...Respondents

*Mr Madhav M. Bhokarikar, Advocate for petitioner in all petitions.
Mr S.P. Tiwari and Mr S.N. Kendre, Asstt. Govt. Pleaders for
respondents No.2 to 4 in all petitions.*

CORAM : SUNIL P. DESHMUKH, J.

DATE : 31st July, 2018

ORAL JUDGMENT :

1. Heard learned counsel for petitioners. He contends that the competent authority had declared the transactions between petitioners and respondent No.1 in the petitions to be money lending transactions under the Bombay Money Lenders Act, 1946 and/or the Maharashtra Money Lending (Regulation) Act, 2014 and were set aside directing delivery of possession of landed property to present petitioners. He submits that before passing orders, which are subject matter of the writ petitions, competent authority had made reports. During pendency of aforesaid proceedings, suits have been instituted by respondent No.1 in writ petitions against petitioners claiming title to the property and injunction. He submits that the reports made by competent authority may be relevant in the suits for injunction since title to suit property is being claimed by respondent No.1/plaintiffs.

2. He states that despite aforesaid position, the civil court has rejected applications for calling report of competent authority. He fairly refers to that in writ petition No. 8009/2018 petitioners' request for addition of competent authority as party as well as for calling his report has been turned down.

3. Perusal of decision of trial court shows that the suit is for simplicitor injunction restraining defendants from causing disturbance to his possession over suit property. Trial court has referred to that present petitioners, who are defendants in the injunction suits, have contended that the transactions are not of sale and purchase between plaintiffs and defendants and same is hit by the Money Lenders Act. The proceedings in respect of the same have been decided by the competent authority in favour of present petitioners and matter is taken in writ petitions by plaintiffs who are respondents in present writ petitions. The High Court has stayed effect and operation of the order passed by the competent authority. Trial Court has also referred to that petitioners/defendants have also filed application before the District Sub-Registrar Co-operative Societies in 2016 purportedly under the provisions of the Maharashtra *Sawkari (Niyaman) Adhiniyam* 2014 and the same has been rejected. The trial court had considered it would not be proper for petitioners to stress upon the request which would not be conducive and petitioners appear to give more credence to proceedings before the competent authority rather than the court. Trial court has also considered that the petitioners' attempt have been to drag the litigation. The suits have been pending for over 10 years.

4. Having regard to the scenario, in the first place, the writ petitions against decisions by the competent authority are pending for final hearing before this court and the orders passed by the competent authority have been stayed. Final verdict by the competent authority has been in favour of petitioners. In any case, assertion of title would have to be proved by plaintiffs. In the circumstances, impugned orders passed by the trial court do not appear to suffer any infirmity calling for interference with them.

5. In the circumstances, the writ petitions are not entertained in further proceedings. Resort, according to section 105, if required and/or advised, is not foreclosed by this order

**(SUNIL P. DESHMUKH)
JUDGE.**

Madkar