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

**WRIT PETITION NO. 5825 OF 1999**

**.....**

1. Sheshrao Kishan Raut .... Abated.
Age 49 yrs, Occ. Service,
R/o N-7, KA 107/116,
Bajrang colony, Cidco.

2. Mohd. Iqbal s/o Mohd Salar,
age 38 yrs, Occ. Service,
R/o Shahabajar, H.No.1-22-2,
Aurangabad.

3. Shri S.J. Boonlia
age 53 yrs, Occ. Service,
R/o Plot No. A-7/1,M.I.D.C,
Chikalthana, C/o Forbes Gokak Ltd.,
Aurangabad.

4. Shri S.J. Sadafhule,
age 48 yrs, Occ. Service,
R/o 46, Shivshankar Colony,
Aurangabad.

5. Shri S.B. Deshmukh,
age 44 yrs, Occ. Service,
R/o Aurangabad.

6. Shri S.J. Pathan,
age 44 yrs, Occ. Service,
R/o Kamgar Colony,
PO Chikalthana, Airport, Aurangabad. ...Abated.

7. Shri P T Thorat,
age 47 yrs, Occ. Service,
R/o New Chaitanya Housing Society,
Plot No.4, N-6 Cidco, Aurangabad.

8. Shri B T More,
age major, occ. Service,

R/o H. No. 560, N-6, Avishkar Colony,
Cidco, Aurangabad.

9. Shri B.U. Patil,
age 43 yrs, Occ. Service,
R/o N-11, B-121/4, Hudco,
Aurangabad.

10. Shri S.S. Bachate,
age 42 yrs, Occ Service,
R/o Kapil Kunj, Vishnu Nagar,
New Jawahar Colony, Aurangabad.

11. Mr S S Vakil,
age 50 yrs, Occ. Service,
R/o 10/11, Pannalal Nagar,
New Osmanpura, Aurangabad.

12. Shri Narayan Y Kulkarni,
age 47 yrs, Occ. Service,
R/o B. No.29, Cotala Colony, ...abated...
Aurangabad.

...Respondents...

**VERSUS**

1. Subhash Dattatray Kamlakar,
age 36 yrs, Occ. Service,
R/o N-11, A-53, Sudarshan Nagar,
Hudco, New Aurangabad.

2. Hiralal s/o S. Shinde,
age major, Occ. Service,
R/o. N-11, A-20, Sudarshan Nagar,
Hudco, New Aurangabad.

3. Sunil s/o Murlidhar Naik,
age major, Occ Service,
R/o Avishkar Colony, Cidco,
Aurangabad.

4. Padmakar Ramrao Pawar,
age 33 yrs, Occ. Service,

R/o Avishkar Colony, Cidco,
Aurangabad.

5. Shri V.M Adker,
age major, Occ. Service,
R/o Chetna Nagar, Aurangabad.

6. Mr. Satish D. Kamlakar,
age 40 yrs, Occ. Service,
R/o N-11, A-64/2. Sudarshan Nagar,
Hudco, Aurangabad.

7. Forbes Forbes Campbell and Co. Ltd.,
Employees Co-operative Credit Society
Ltd., Aurangabad through it's present
Chairman Smt Kanchan Deshmukh,
age major, Occ. Service, at Forbes Forbes
Campbell and Company, Bajaj Nagar,
Plot No.RL-7, MIDC, Waluj, Aurangabad.

8. The Maharashtra State Cooperative Appellate
Court, Mumbai, Bench at Aurangabad.
Respondent 1 to 6 orig.
opponents, respondent no.7
original disputant.

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Advocate for Petitioners : Shri R P Dhase
Mr R S Sarvadnya Advocate for Respondent No.1.
Advocate for resp. 2 to 4 : Mr V N Damle - absent.
Respondent nos. 6 to 8 served, none appears for them.

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**CORAM : V.K. JADHAV, J.**

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Reserved on : May 02, 2018
Pronounced on : June 04, 2018

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**JUDGMENT** :-

1. The petitioners have sought to quash and set aside the judgment and order dated 4.8.1998 passed in Appeal No. 78 of 1997 by the learned Member of the

Maharashtra State Appellate Court, Mumbai, Bench at Aurangabad so also the judgment and award of the Cooperative Court at Aurangabad in Dispute No. ACR/99/1992, dated 3.7.1997.

2. The factual matrix, in brief, are as under :-

It is contention of the petitioners that they are the members of the Employees' Cooperative Credit Society Ltd. Aurangabad consisting of the staff members of the Forbes Forbes Campbell and Company Ltd. Aurangabad (for the sake of brevity, hereinafter referred to as "the said Society"). They were also elected as the Committee Members from 1985 to 1991.

3. It is further contention of the petitioners that respondent No.1 - Subhash, who was member of the said society was working as Cashier-cum-Accountant from 1981 to 1991 with the said society. It was the duty of respondent No.1 to disburse and recover short and long terms loans, as the case may be, to and from the concerned borrower of the said society. The borrowers used to repay the loan installments to respondent No.1,

having full confidence in him and respondent No.1 used to maintain a diary and note down therein the installments paid by individual borrowers. The borrowers having faith in respondent No.1 did not insist for receipts of the loan repayments.

4. It is further contended that in the year 1992 respondent No.3 smelt some foul play on the part of respondent No.1. On enquiry, it was noticed that respondent No.1 did not credit the received installments in the account of the said society.

5. It is further contended that thereupon, the Directors of the said Society called respondent No.1 and sought his explanation. Respondent No.1 had admitted that he had received the installments from the borrowers but he did not credit the amount to the account of the said Society and that he had purchased some immovable properties out of the mis-appropriated amounts. On full-fledged enquiry, it was revealed that respondent No.1 had mis-appropriated total sum of Rs. 4,88,871/- and after charging the interest on the said

amount, the total amount to be recovered from respondent No.1 reached Rs.8,48,187.72 Ps. After receipt of the report of the Internal Auditor, respondent No.1 accepted his liability. Not only this but Society's accounts were also got audited from the Authorized Government Auditor, who submitted his report in May 1994 and confirmed the liability of respondent No.1.

6. It is further contended by the petitioners that when respondent No.1 was confronted with the reports of the Auditors he accepted his liability and offered to transfer his properties, purchased by him out of the mis-appropriated amount in the name of some of the members of the society, comprising of agricultural lands, houses and cash, as under:-

(a) A registered sale deed was executed on 26.12.1991 by respondent No.1 in favour of petitioner No.1, Secretary of the Society, in respect of agricultural land Gut No.4 to the extent of 91 ares situated at village Tuljapur, Taluka and District Aurangabad.

(b) Another registered sale deed was executed on 26.12.191 by respondent No.1 in favour of respondent No.3 herein Shri Shinde, in respect of land Gut No.4, to the extent of 91 ares situated as above.

(c) A bond, styled as Sale Deed, was executed by respondent No.1 in favour of present respondents 4 and 5 in respect of House No.11A, 53/1 situated at Hudco, Aurangabad.

(d) Another bond, styled as Sale Deed, was executed by respondent No.1 in favour of present respondent 3 in respect of House No. 21/5/11A/2003 Type 116 situated Cidco, New Aurangabad.

(e) Respondent No.1 remitted Rs.26,000/- to respondent No.6 herein for the expenses of registration of sale deed of Gut No.4 and balance was to be credited to the Society's account.

(f) Rs.2,200/- were paid by respondent No.1 to respondent No.7 herein, out of which Rs.1200/- were to be utilized by respondent No.7 for entering the names of respondent Nos.2 and 3 in the revenue record and the remaining Rs.1000/- were withdrawn by him.

(g) Not only this, but respondent No.1 also gave undertaking to respondent No.7 to divert the amount of provident fund and gratuity amounts for adjustment towards the dues of the respondent /Society.

7. It is further contended that in order to give effect to these transactions, respondent No.7 society filed a dispute in the Cooperative Court, Aurangabad on 7.7.1992 bearing No.ACR/99/92, praying for attachment of the properties before award as security for repayment. The Honourable Court, by way of interim order dated 7.7.1992, restrained respondent Nos.1 to 8 from transferring or alienating the properties mentioned above

8. It is further contended that respondent No.1 by filing Written Statement, denied all the allegations and contended that he had not committed any fraud and the sale deeds and bonds, alleged to have been executed by him were under influence and coercion.

9. The learned Judge of the Cooperative Court, Aurangabad, after considering the evidence of the parties, documents tendered on record and submissions of the parties, passed his judgment and order and directed recovery of Rs.8,48,187.72 Ps. from respondent No.1 along with interest at the rate of 15% from 8.1.1992

till it's realization. The Cooperative Court further continued with the attachment of the properties till the recovery of the entire amount and, on failure, it was ordered, to sell the properties after expiry of the period of two months from 3.7.1997. Surplus, if any from the sale proceeds were ordered to be refunded to respondent No.1.

10. Aggrieved by the said judgment and order of the learned Judge of the Cooperative Court, respondent No.1 preferred an Appeal No.78 of 1997 before the Cooperative Appellate Court, Mumbai, Bench at Aurangabad.

11. The learned Member of the Appellate Court, vide its judgment and order dated 4.8.1998 in appeal No.78/1997 partly allowed the appeal, set aside the order of the Co-operative Court, Aurangabad dated 3.7.1997 in dispute no.99/1992 and modified the order that respondent no.1 Society is declared entitled to recover a sum of Rs.8,48,187.72 paise from the appellant and the previous Managing Committee

members working during the period 1985 to 1990-1991 jointly and severally with interest @ 12% p.a. on Rs.4,88,871/- with effect from 8.1.1992 till full realization of the amount.

12. Thus, aggrieved by both these judgments and awards, present Writ Petition has been filed.

13. During the pendency of this writ petition, petitioner nos. 1, 6, 7 and 12 died. Pursuant to the statement made by the learned counsel appearing for the petitioners to the effect that, the legal representatives of petitioner nos. 1, 6, 7 and 12 are not willing to prosecute this petition any further. By order dated 18.1.2017 this Court abated petition of the petitioner nos. 1, 6, 7 and 12.

14. Pursuant to the order dated 10.7.2015 passed by this Court, this petition is taken up for final hearing. Learned counsel for the petitioners and learned counsel appearing for respondent no.1 were heard at length.

15. The counsel for respondent nos. 2 to 4 remained absent. Respondent nos. 6 to 8 served, none appears for them.

16. Learned counsel for petitioners submits that, Forbes Forbes Compbell & Co. Ltd., Employees Cooperative Credit Society Ltd., Aurangabad is registered society under Maharashtra Co-operative Societies Act, 1960. Learned counsel submits that respondent No.1 Subhash was working as cashier-cum-accountant of the society, from year 1981 to 1991. He was also employee of Forbes Forbes Campbell Co. Ltd., Aurangabad as accountant. The duties of respondent No.1 as cashier-cum-accountant of the society were related to payments of loan amounts to the members of the society, to deposit in banks payments received for the society, to maintain the accounts and to do all incidental things of the accounts. Learned counsel submits that the members of the society, employees of Forbes Forbes Campbell Co. Ltd., had full faith on respondent, members used to give their payments towards loan repayment to respondent No.1. However,

the respondent No.1 used to keep amounts with himself and used to give no receipts, swallowed the amount and purchased properties out of this misappropriated amounts. The misappropriation by respondent No.1 came to lime light in year, 1992. Learned counsel further submits that the office bearers of the respondent No.7 society sought explanation from respondent No.1. He admitted having committed misappropriation. He also admitted to have purchased properties out of misappropriation amounts. The total amount of misappropriation is Rs.4,88,871.72. As on the date of filing of the writ petition in High Court, this amount with interest has gone to more than Rs.13 lakhs. The audit report from Shri Bothra, Chartered Accountant on 14.12.1991 internal Auditor for the society. He prepared two lists Exh-D-1 and D-2 detailing the misappropriated amounts from short term loan and long term loans repayment.

Learned counsel for the petitioners further submits that, at the end of these two lists of misappropriated amounts, respondent No.1 gave in writing that he has committed misappropriation as per the lists and he undertook to make repayments. The respondent No.7 society got audits done from the Government Auditor Shri B. Y. Chalmeti, in May, 1994, and in his audit report also this Government Auditor confirmed the mis-appropriation committed by respondent No.1. In spite of having been invited respondent No.1 did not attend, cooperate and explained at the time of audit by Mr. B. Y. Chalmeti. As a security of repayment respondent No.1 executed a registered sale deed of 91 Ares from Gut No.4 on 26.12.1991 in favour of deceased petitioner No.1. Respondent No.1 executed a registered sale deed of 91 Ares from Gut No.4 in favour of Shinde. Respondent No.1 executed a bond styled as a sale deed in favour of Mr. S. M. Naik in respect of his house bearing No. N-11 A, 53/1 at HUDCO, New Aurangabad and also in favour of P. R. Pawar. Respondent No.1 executed a bond styled as sale-deed in respect of his another house type 116, CIDCO, New Aurangabad in favour of Mr. H. S. Shinde.

Learned counsel further submits that respondent No.1 remitted Rs.26,000/- with Mohd. Iqbal as expenses of registration of sale deeds of Gut No.4 after deducting the expenses remaining amount was to be credited to the society. Respondent No.1 remitted Rs.2,200/- withdrawn Rs.1000/- with direction that the remaining amount was to be utilized by Mr. Adkar for entering names of Mr. S. K. Raut and Mr. S. H. Shinde in Revenue Record in respect of land Gut No.4. Respondent No.1 gave undertaking in writing to Shri Adkar allowing him to divert his provident fund and Gratuity to be adjusted towards the dues of the society. All these actions and execution of documents were done by respondent No.1 as help to the society to recover the amounts of misappropriation by selling the property. Learned counsel further submits that respondent No.7 society filed a Dispute in Cooperative Court, Aurangabad for recovery of the amounts of misappropriation from respondent No.1. Through his written statement in Cooperative Court, respondent No.1 denied misappropriation. Respondent No.7 examined five witnesses and filed documents in Cooperative Court Aurangabad to prove its claim. Respondent No.1 examined himself and did not examine independent witness. The Cooperative court, Aurangabad decided the dispute No. ACR/99/92 and held that the society is entitled to recover a sum of Rs.8,48,187.72 from respondent No.1 with 15% interest from 08.01.1992 till full realization of misappropriated amounts. Attachment over the properties shall continue till the entire misappropriated amount is recovered. If respondent No.1 fails to pay the amount within two months from 03.07.1997 the attached properties with consent of respondent Nos.2 to 5 or by themselves could be sold for recovery of amount, if some amount remains to be paid respondent No.1. Learned counsel further submits that Appeal No. 78 of 1997 is partly allowed by Cooperative Appellate Court, Aurangabad and the judgment and order of Cooperative Court is set aside. Petitioner society is held to be entitled to recover a sum of Rs.8,48,187.72 but not from respondent No.1 alone but along with Managing Committee members of the society from 1985 to 1990-91 jointly and severally with interest @ 12% on Rs.4,88,871/- as Managing Committee members of the society have not discharged their supervisory duties satisfactorily. The attached properties were permitted to be sold for recovery of the amount to the extent to respondent No.1 only.

17. Learned counsel for the petitioners further submits that, Managing Committee members of petitioner Society if neglected their supervisory duties, whether they can be held responsible for repayment of misappropriated amount to the society, when in particular neither the cooperative court or co-operative Appellate Court or the Auditors have not recorded finding that the Managing Committee members were involved in misappropriation. Learned counsel submits that the judgment and order of the appellate court below suffered from the vice that it passed the judgment against the petitioners without hearing them. The appellate Court below failed to consider the cardinal principle of law that the admission need not be proved, when there was abundant documentary evidence on record to hold that respondent no.1 has misappropriated the amount in dispute. The court below failed to consider the fact that there was no iota of evidence to hold that the petitioners are responsible for allowing the respondent no.1 to misappropriate the

amount nor there was anybody's case that the petitioners were negligent. Learned counsel further submits that, the liability fastened upon the members of the Managing Committee of the Society without hearing or making them parties to the litigation is legal. Once the liabilities admitted by the respondent no.1, whether the members of Committee should be directed to pay the defalcated amount dividing equally between the respondent no.1 and members of the Managing Committee.

18. Learned counsel for petitioners, in order to substantiate his contentions, placed reliance on a judgment in case of **National Central Cooperative Bank Ltd., Vs. Ajay Kumar and others reported in AIR 1994 SUPREME COURT 39**.

19. Learned counsel for respondent no.1 submits that the charges of misappropriation levelled against the respondent no.1 by the disputant Society/respondent no.7 herein are without any base and no evidence has been adduced by any witness of the Society. Action of

filing case is not supported by an inquiry conducted by the Registrar Cooperative Societies. Learned counsel for respondent no.1 submits that the disputant-society instead of such proper inquiry arbitrarily decided to involve respondent no.1 in the matter. Even, the disputant society/respondent no.7 herein has threatened respondent no.1 for lodging a police complaint and accordingly compelled him to bend down forcibly for giving admissions on exh.D-1 and D-2 for which the whole executive body including the Secretary is collectively responsible and liable for misappropriation, if any committed in the society. Learned counsel submits that, the executive body collectively managed with the conspiracy to grab the property of respondent no.1 by giving threats to respondent no.1 to the effect that respondent no.1 is solely liable for misappropriation of the huge amount and further directed him to transfer the property in their names to meet the appropriation. Learned counsel submits that, it is pertinent to note that all the purchasers are the executive body members of the respondent no.7 society who wanted to swallow the property of respondent no.1. Learned counsel submits that, respondent no.1 is victimized by the executive committee members who were and are really liable for fraud and misappropriation, if any. Learned counsel for respondent no.1 submits that, the responsibilities and liabilities can be fixed by following due procedure against the whole executive body members and without making such an inquiry, respondent no.1 should not have been held responsible. Learned counsel submits that, respondent no.1 was writing the accounts of the society as per the instructions of the Managing Committee Members i.e. Chairman, Vice Chairman, Secretary, and Treasurer with a very petty amount of remuneration of Rs.75/- p.m. He was not a Managing Committee Member of the Society nor signatory authorized by the Society. He was not authorized to accept the money and to distribute the cash or to do any bank transactions. All outside cash transactions and its distribution had been done and handled by the Vice Chairman, Secretary, and treasurer. Learned counsel submits that, all loan transactions and disbursement of the loan made to the members had taken place by account payee cheque only and or recoveries of the loan from the members were done through pay roll, salary sheets etc. So far as the document of D-1 and D-2 on record are concerned, most of the records are not shown to the Government Auditor such as short term loan form, list of the loan paid to the members as is mentioned in short term loan paid to the members. Learned counsel submits that, though, respondent no.1 has not preferred any writ petition, however, the lower appellate court should have considered this important aspect of the case. Learned counsel submits that, respondent no.1 has deposited the amount to the extent of his share before this Court as directed by the Cooperative Appellate Court.

20. Respondent no.7/disputant has raised a dispute for recovery of a sum of Rs.8,48,187.72/- against respondent no.1 herein. It is the case of the disputant society that respondent no.1 herein was working as a cashier cum accountant and he was entrusted the work of maintenance of the accounts. Respondent no.1 herein was an employee of the Society. It has been

stated in the dispute that the members of the Society were making direct payment to respondent no.1 herein and respondent no.1 was accepting such payment. However, respondent no.1 had not issued any receipt thereof to such members. It is further case of respondent no.7 disputant/society that respondent herein agreed to put his properties in the hands of directors for the amount so misappropriated by him and accordingly executed a registered sale deed bearing no.667 dated 26.12.1991 in favour of opponent no.2 in respect of his landed property gat no.4 situated at Tuljapur Tq. & District Aurangabad to the extent of 91 R and also executed another sale deed bearing no.666 dated 26.12.1991 in favour of respondent no.2 herein. It is further case of the disputant society that respondent no.1 remitted cash of Rs.26,000/- in the hands of petitioner no.2 Mohd Iqbal for the purpose of registration charges and also paid Rs.2,200/- to respondent no.5 Mr.Adekar to meet out the expenses for entering the names of directors in 7/12 extract pursuant to the aforesaid execution of the sale deed. Further, respondent no.1 has also given undertaking to same respondent Mr Adkar allowing him to adjust the amount of his provident fund and gratuity against the amount of misappropriation. It is also the case of the disputant society that respondent no.1 herein has admitted to have purchased the properties out of the funds of the society.

21. Respondent no.1 herein has strongly resisted the dispute by filing written statement. According to him, dispute has been filed to harass him with malafide intention and in collusion with other respondents. It is his case that Society wants to keep him in pressure of initiation of criminal proceedings. Though, he has admitted as an employee of the society, further denied that he was working as an accountant. He used to write the accounts of the disputant society as per the orders and directions of the Managing Committee of the disputant society. It is also his case that, undertaking pertaining to the adjustment of the alleged misappropriated amount from his provident fund and gratuity has been obtained by the Society from him forcibly.

22. On careful perusal of the judgment and order passed by the Maharashtra State Cooperative Appellate Court, Mumbai, Bench at Aurangabad (hereinafter referred to as Cooperative Appellate Court) it appears that the learned Member of the Cooperative Appellate Court has given weightage to the Audit report submitted by the Government Auditor. Learned Member of the Cooperative Appellate Court, Bench at Aurangabad by referring the audit report has also observed that auditor at various places in the audit report has mentioned that excess loans have been sanctioned to the members than their demands and Auditor has sought explanation from the concerned Managing Committee Members. The learned Member of the Cooperative Appellate Court has accordingly concluded that the Government Auditor has put equal responsibility of misappropriated amount of the society on respondent no.1 herein and on the then Managing committee members of the society.

23. In terms of the provisions of section 83 of the Maharashtra Co-operative Societies Act, 1960, (hereinafter called as 'Act of 1960'), the Registrar is

empowered to hold an enquiry into the constitution, working and financial conditions of the society either suo-motto, or on the application of one fifth members of the society or on the basis of Special report under the third proviso to sub-section (5B) of section 81 of the Act of 1960.

24. In the instant case, there is no record available whether the Registrar of the Co-operative society has complied with the provisions of Section 83 of the Act of 1960. In terms of section 88 of the Act of 1960, the Registrar of the Cooperative Society is empowered to assess the damages against delinquent promoters etc. In terms of the provisions of Section 88 Sub-section (1) the Act of 1960, where in the course of or as a result of an audit under section 81 or an inquiry under section 83 or an inspection under section 84 or the winding up of a society, the Registrar is satisfied on the basis of the report made by the auditor or the person authorized to make inquiry under section 83 or the person authorized to inspect the books under section 84 of the liquidator under section 105 or otherwise that any person who has

taken any part in the organization or Management of the Society or any deceased, or past or present officer of the society has, within a period of five years prior to the date of commencement of such audit or date of order for inquiry, inspection or the winding up, misapplied or retained, or become liable or accountable for, any money or property of the society, or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar or a person authorized by him in that behalf may frame charges against such person or persons, and after giving a reasonable opportunity to the person concerned and in the case of a deceased person to his representative who inherits his estate, to answer the charge, make an order requiring him to repay or restore the money or property or any part thereof, with interest at such rate as the Registrar or the person authorized under this section may determine, or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retention, misfeasance or breach of trust, as he may determine.

25. In the instant case, I do not find compliance of the provisions of Section 88 of the Act of 1960 so far as the dispute raised by the Society is concerned, however, the learned Member of the Cooperative Appellate Court has given weightage directly to the audit report and passed the impugned order.

26. It further appears that, the learned Member of the Cooperative Appellate Court has directed recovery of the aforesaid amount of Rs.8,48,187.72 from the present respondent no.1 and previous Managing Committee Members working during the period 1985 to 1990-1991 jointly and severally with interest @ 12% p.a. from 8.1.1992 till full realization of the amount. The learned Member of the Appellate Cooperative Court has further directed respondent no.7 herein/society to calculate the above amount equally in between the appellant and the then Managing Committee Members and recover the same from them equally and individually. It further appears that, the present petitioner nos. 3 to 10 are the previous Managing Committee members working during the period of 1985 to 1990-1991 however, neither they

were impleaded as party respondents to the original dispute or in the appeal nor given any opportunity of being heard by the learned Member of the Cooperative Appellate Court. Consequently, even though, this matter is old one, this Court left with no other choice but to remand the matter to the Cooperative Appellate Court with some directions. Hence, following order.

**O R D E R**

I. Writ Petition is hereby partly allowed. No costs.

II. The impugned Judgment and Order passed by the learned Member, Cooperative Appellate Court dated 4.8.1998 in appeal No.78 of 1997 is hereby quashed and set aside and the matter is remanded to the Maharashtra State Cooperative Appellate Court, Mumbai, Bench at Aurangabad with following directions :-

a] Restore the Appeal No.78/1997 to its original number.

b] The parties except petitioner nos. 1,6,7 and 12 shall appear before the Maharashtra State Cooperative Appellate Court, Mumbai, Bench at Aurangabad on 5.7.2018.

c] The Maharashtra State Cooperative Appellate Court, Bench at Aurangabad shall decide the appeal No.78/1997 afresh, within six months from the date of appearance of the parties before it, after giving an opportunity of being heard to the parties, who put their appearance as directed by this Court.

d] The amount of Rs.1,50,736/- deposited by the respondent no.1 herein before this Court shall be transferred to the Maharashtra State Cooperative Appellate Court, Mumbai, Bench at Aurangabad and the learned Member of the Maharashtra State Co-operative Appellate Court Mumbai, Bench at Aurangabad, shall pass appropriate orders in respect of the said amount while disposing of the appeal.

III] Writ Petition accordingly disposed of. All points kept open.

**( V.K.JADHAV )**
**JUDGE.**

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