IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2935 OF 2018

JULFODDIN AKBAR MULANI AND OTHERS
VERSUS
ASHOK SAHAKARI BANK LTD AHMEDNAGAR BRANCH SHRIRRAMPUR THROUGH MANAGER AND OTHERS

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Advocate for the Petitioners : Shri C.K.Shinde
AGP for Respondent Nos. 2 to 5 : Shri S.R.Yadav (Lonikar)

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CORAM : RAVINDRA V. GHUGE, J.
DATED : 23rd March, 2018.

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PER COURT :-

1] The petitioners are aggrieved by order dated 23/08/2017 passed by the Co-operative Court and the order dated 06/01/2018 passed by the Maharashtra State Co-operative Appellate Court.

2] I have considered the strenuous submissions of Shri Shinde learned advocate for the petitioners and the learned AGP on behalf of respondent Nos. 2 to 5.

3] In the light of the submissions of the learned advocates, I have gone through the entire petition paper book with their assistance.

4] It is apparent that the petitioners approached the Co-operative Court in relation to a demand notice issued by respondent No.1/bank. By the said demand notice, the bank has called upon these petitioners to repay the loan amount, which the bank has advanced to these petitioners. These petitioners have challenged the demand notice before the Co-operative Court contending that they have never taken the loan of Rs. 5,00,000/- (Rupees Five Lakhs), that they have never mortgaged any property with the bank and that they are neither borrowers nor guarantors.

5] The Co-operative Court concluded that the bank is yet to take a decision with regard to the demand notice. The bank has taken recourse to Section 101 proceedings under the MCS Act , 1960. There cannot be an injunction with regard to a notice, which has been issued as a matter of procedure. Invoking Section 41 of the Specific Relief Act, the Co-operative Court rejected the dispute.

6] The Appellate Court once again considered the entire case of these petitioners in the appeal preferred by them. It concluded that the dispute is of a pre-mature nature since the bank desires to follow the procedure laid down in law for recovering the outstanding loan amount.

7] I do not find that the impugned orders could be termed as being perverse or erroneous and more so, in the light of the fact that the bank is following the due procedure as is prescribed in law.

8] Considering the above, this petition, being devoid of merits, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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