

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.757 OF 1998
(The Parbhani Peoples Co.op.Bank Ltd., Vs. Jugalkishor Motilal Loya
and another)

Mr.S.S.Bora, Advocate for the petitioner.
Mr.Deelip Patil-Bankar, Advocate for respondent No.1.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 04/01/2018

PER COURT :

1. I have heard the learned Advocate for the respective sides and have gone through the petition paper book with their assistance.

2. Mr.Bora, learned Advocate has strenuously criticized the impugned judgment dated 23/05/1997 and prays that this petition be allowed in terms of prayer clause 10(c) which reads as under :-

“The judgment and award dated 23/5/1997 passed by the learned Judge, Co-operative Court, Nanded in Case No. CCP/21/1995 be quashed and set aside.”

3. Considering the submissions of the learned Advocates and in view of the order of the Divisional Joint Registrar, Co-operative Societies, Aurangabad dated 07/07/1995, I do not find that this

petition needs to be entertained. It is however, made clear that I have not considered the contention of the petitioner that the Co-operative Court had no jurisdiction to entertain a dispute regarding Section 101 Recovery Certificate, u/s 91 of the M.C.S.Act. This issue is therefore left open.

4. It cannot be ignored that in so far as the recovery aspect in this matter is concerned, the proceedings u/s 101 of the M.C.S. Act, 1960 and the recovery certificate issued on 06/03/1995, was the basis of the dispute between the parties. By the order dated 07/07/1995 passed by the Divisional Joint Registrar, Co-operative Societies, the recovery certificate u/s 101 was modified and the amount of Rs.8,000/- to be recovered from the respondents was confirmed. The said recovery of Rs.8,000/- was made subject to the decision of the Co-operative Court in Case No.CCP/21/1995.

5. It is obvious from the record that the respondent disputants had deposited Rs.9,000/- which was to be recovered by the petitioner/Bank and the said entry of depositing Rs.9,000/-, which was in English, was misconstrued to be a deposit of Rs.1,000/- since the number (1) in Marathi is identical to the number (9) in English. Even in the impugned order, the aspect of recovery of a maximum of

Rs.9,000/- has been said to be settled as the disputants had deposited the said amount on 30/09/1991. The order passed by the Divisional Joint Registrar dealing with the recovery certificate also concludes the amount to be recovered as being Rs.8,000/-

6. Considering the above, this petition is left with an academic interest. Though the disputants are held to be liable to pay interest on the loan amount of Rs.20,000/- by the impugned order dated 23/05/1997, since the disputants have accepted the said direction, this petition does not deserve to be entertained.

7. Consequentially, this petition is disposed off. Rule is discharged.

(RAVINDRA V. GHUGE, J.)