

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

933 WRIT PETITION NO. 11912 OF 2018

LONI KHURD VIVIDH KARYAKARI SEVA SOCIETY LONI
VERSUS
CHANDRABHAN TANAJI NIRMAL

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Advocate for Petitioner : Shri Gorde Patil Sandeep

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 24, 2018

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PER COURT :-

1 The petitioner society is aggrieved by the order dated 20.8.2018, by which, Special Darkhast No.136 of 2011 has been dismissed as the judgment dated 23.3.2011, which was sought to be executed, has been quashed and set aside by judgment dated 2.4.2012, delivered by the Maharashtra State Cooperative Appellate Court.

2 The contention of the petitioner is that the respondent, who has been held guilty of misappropriation, is now disposing of the properties which were attached in the Darkhast proceedings, so as to ensure that the decree is not frustrated. Writ Petition No.5067 of 2012 has been filed by the petitioner for challenging the judgment of the appellate Court dated 2.4.2012. The petition is admitted on 3.7.2012. However, interim relief has not been granted.

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3 I find that the interlocutory orders passed by the executing Court were in connection with the judgment and decree dated 23.3.2011. If that judgment is quashed and set aside, the interlocutory orders normally would be vacated as the said judgment is quashed and set aside by the appellate Court. Since this petitioner is already before this Court challenging the judgment of the appellate Court, he could move the said proceedings with a Civil Application for seeking certain protective orders.

4 In view of the above, this petition is disposed off with liberty to the petitioner to move a civil application in Writ Petition No. 5067 of 2012, since it is in connection with the judgment of the appellate Court as well as the judgment of the Cooperative Court, which forms the basis of the execution proceedings.

(RAVINDRA V. GHUGE, J.)

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