

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.488 OF 2018
(Sarla Vijay Varma and another Vs. The Jalgaon Janata Sahakari
Bank Ltd., Jalgaon, through its Manager and another)

Mr.V.M.Jaware, Advocate for the petitioners.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 15/01/2018

PER COURT :

1. The petitioners are aggrieved by the order dated 04/12/2017 passed by the Maharashtra State Co-operative Appellate Court, Mumbai, Bench at Aurangabad, by which A.O.No.13/2017 filed by respondent No.1/Bank was allowed and the property House No.130 has been directed to be attached till the decision of the dispute.

2. Learned Advocate for the petitioners has strenuously criticized the impugned order. It is contended that in so far as an earlier loan account was concerned, the dispute between the same parties was resolved in National Lok Adalat on 09/04/2016 and the petitioners deposited the amount of Rs.2,30,000/- as agreed upon, on 28/04/2016. In so far as the second loan account is concerned, the petitioners have pledged gold for taking the loan of Rs.1,00,000/- in 1998. The said amount was not repaid and eventually it turned out

that the gold that was pledged was fake metal.

3. Contention of the petitioners is that the Bank has taken a false stand. The gold should have been inspected in the presence of the petitioners. A counter claim has also been preferred by the petitioners for opposing the proceedings initiated by the respondent/Bank. The Co-operative Court had rightly rejected application Exh.29 filed by the Bank for seeking attachment of the property that was identified and the Appellate Court has erroneously allowed the appeal and has directed the attachment of the house property till the decision in the pending dispute before the Co-operative Court.

4. I find from the record that one of the petitioners had applied for the gold loan and the gold was handed over to the Bank. After disbursing the loan of Rs.1,00,000/-, the Bank noticed that the gold was fake material.

5. I had called upon the learned Advocate for the petitioners to make a statement as to whether the petitioners are agreeable to deposit the amount to be recovered as in 2008 which is Rs.1,74,826/- in this Court. He sought for a pass over and when the matter was

called out at 4.45 p.m., he submitted on instructions that the petitioner is willing to deposit Rs.1,75,000/- within 4 weeks before the Co-operative Court in the pending dispute.

6. It cannot be ignored that by now, the recoverable amount with interest over the past about 10 years is likely to be more than 3.5 lacs.

7. Learned Advocate for the petitioners prays that no notice needs to be issued to respondent No.2.

8. Issue notice to respondent No.1, returnable on 23/02/2018 on the condition that the petitioners shall deposit an amount of Rs.1,75,000/- before the Co-operative Court, Jalgaon on or before 09/02/2018 and the petitioners shall produce proof of deposit in the Registry of this Court on or before 12/02/2018. In the event of failure, this petition shall stand dismissed without reference to the Court w.e.f. 13/02/2018.

9. It is made clear that this Court has not expressed any opinion about the quantum of recoverable amount as on date. As such, if the above amount is so deposited, the Co-operative Court shall not issue

any further order with regard to the auction of the property House No.130 at Kurha-Kakoda, Talsil Muktai Nagar, Dist. Jalgaon until further orders from this Court.

10. Copy of the petition paper book for issuance of notice shall be supplied on or before 17/01/2018, failing which the petition shall stand dismissed without reference to the Court w.e.f. 18/01/2018.

(RAVINDRA V. GHUGE, J.)