

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION (ST.) NO.28235 OF 2018**

Sanjay Shivaji Mali & Anr.

.. Petitioners

Vs.

Dhanlakshmi Nagari Sahakari Patsanstha  
Karad, District Satara & Ors.

.. Respondents

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Mr.Prabhanjan Gujar for the petitioners.

Mr.Kalpesh Patil for the respondents.

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**CORAM : R.D. DHANUKA, J.**

**DATE : 26<sup>th</sup> October 2018**

**P.C.:**

. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 30<sup>th</sup> August 2018 thereby directing the petitioners to deposit a sum of Rs.5 lakh in two installments as a condition precedent for setting aside the judgment and award dated 6<sup>th</sup> January 2017 filed by the respondents against the petitioners. According to the said judgment and award, the petitioners are liable to pay more than Rs.15 lakh to the respondents (original disputants).

2. Learned Maharashtra State Co-operative Appellate Court Mumbai, Bench at Pune has passed an ex parte order against the petitioners in view of the petitioners having remained absent when the said dispute was heard though the written statement was already filed by the petitioners.

3. Learned counsel for the petitioners states that the petitioners had deposited an amount of Rs.45,000/- with the respondents and is not in a position to pay the said amount of Rs.5 lakh in view of the precarious financial condition of the petitioners.

4. Learned counsel for the respondents (original disputants) submits that the learned Maharashtra State Co-operative Appellate Court Mumbai, Bench at Pune has passed a very reasonable order directing the petitioners to deposit a sum of Rs.5 lakh though the awarded amount is Rs.15 lakh. He however does not dispute that certain properties of the petitioners were mortgaged with the respondents which securities continues under the control of the respondents.

5. Since the matter has been remanded back to the learned Maharashtra State Co-operative Court, in view of the ex parte judgment and award rendered by the learned Maharashtra State Co-operative Appellate Court, in my view, the interest of justice would be met with if the petitioners are directed to deposit a sum of Rs.2,50,000/- with the respondents in addition to the amount of Rs.45,000/- already deposited within four weeks from today. It is ordered accordingly. It is made clear that no further extension of time would be granted. The said deposit directed to be made by the petitioners would be subject to the final outcome of the proceedings before the learned Maharashtra State Co-operative Court Mumbai, Bench at Pune in Dispute No.1255 of 2006.

6. It is made clear that if the aforesaid amount is not deposited with the respondents within the time prescribed, the protection granted

by this Court to stand vacated and the writ petition to stand dismissed without further reference to the Court.

7. Mr.Gujar, learned counsel appearing for the petitioners, on instructions, states that the petitioner no.2 (opponent no.1B) would adopt the written statement filed by the petitioner no.1 in Dispute No.1255 of 2006. Statement is accepted.

8. The petitioner is directed not to seek unnecessary adjournment before the learned Maharashtra State Co-operative Court. Hearing of the said Dispute No.1255 of 2006 is expedited. Directions issued by the learned Maharashtra State Co-operative Appellate Court in paragraph 3 of the operative part of the impugned order dated 30<sup>th</sup> August 2018 is not modified. Both the parties are directed to appear before the learned Maharashtra State Co-operative Court on 30<sup>th</sup> November 2018 at 11.00 a.m.

9. Writ petition is disposed of in aforesaid terms. No order as to costs. Parties as well as the learned Maharashtra State Co-operative Court to act on the authenticated copy of this order.

***R.D. DHANUKA, J.***