

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3353 OF 1997

**SANGAMNER SHETAKI SAHAKARI SANGH.
VERSUS
JAMAL BALAM TAMBOLI & OTHERS.**

**WITH
WRIT PETITION NO.4180 OF 1997**

**SANGAMNER SHETAKI SAHAKARI SANGH.
VERSUS
JAMAL BALAM TAMBOLI & OTHERS.**

...
Advocate for the Petitioner : Shri V.R.Dhorde and Shri Mobin Shaikh.
Advocate for Respondents 1A to 1G : Shri S.V. Dixit
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th December, 2019

Per Court:

1 The learned advocate for the first respondent submits that the said respondent has passed away and his legal heirs are on record in both these petitions.

2 I have heard the learned advocates for the respective sides at length.

3 The petitioner is a cooperative society, which had preferred the original disputes before the Cooperative Court. By identical orders

dated 30.09.1973, the Cooperative Court had directed the recovery of amounts ranging from Rs.23/- to Rs.236/- from the respondents. The respondents approached the Cooperative Appellate Court in 1974 in Appeal nos.84 to 115 of 1974. By the impugned orders dated 12.06.1995, the Cooperative Appellate Court allowed the appeals and set aside the orders of the Cooperative Court.

4 In the first petition, respondent nos.1, 2 and 9 have passed away. The legal heirs of the deceased respondent no.1 have been brought on record. The petition has abated to the extent of respondent nos.2 and 9. The petition has been dismissed as against respondent nos.3 to 8, 10 and 11. In the second petition, respondent nos.1 to 3 have passed away. The legal heirs of respondent no.1 have been brought on record. The petition has been dismissed as against respondent nos.4 to 6 and 8 and has also abated as against respondent nos.2, 3, 7, 9 and 10.

5 The connected Writ Petition No.23/1996 involving the same litigating sides, was abated by order dated 26.03.2012, which reads as under :-

- “1. *The Writ Petition stands abated against the respondent nos.2, 3, 4, 7 and 8. The decree in question is joint and several.*
2. *As it has been already abated against the guarantors and the decree can not be segregated, the whole Writ Petition stands abated. No costs.”*

6 Considering the above, even in these two writ petitions, the

decree appears to be joint and several. As such, in view of the impugned order passed by the Cooperative Appellate Court setting aside the decree of the Cooperative Court, I do not find that these two petitions could be considered for adjudication since these petitions are abated against several respondents and are dismissed against many of the respondents. So also, I find from the orders passed by the Cooperative Court that the amounts ranging from Rs.23/- upto Rs.236/- were to be recovered jointly and severally from the respondents. Pursuant to the date from which the recovery of such paltry amounts was to be made in 1969, which is almost 50 years ago, I do not find that these petitions deserve to be considered.

7 As such, these Writ Petitions are disposed off. Rule is discharged.

kps

(RAVINDRA V. GHUGE, J.)