

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11891 OF 2014

TUKARAM HARI PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Shri V.B. Patil.
AGP for Respondent Nos. 1 to 4 : Shri S.W. Munde.
Advocate for Respondent No. 5 : Shri Ajinkya Deshmukh
h/f. Mr. A.V. Hon.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 25.02.2019

PER COURT :

1. On 05.02.2019, I had passed the following order :

"1. The petitioner specifically claims that the 101 Certificate dated 29/05/2007 is a non-existing document. It is a bogus document and the Assistant Registrar, Co-operative Society, Bhusawal has informed him by letter dated 16/04/2014 that in between 09/08/2007 till 16/04/2014, his office has not received any record as regards issuance of the Section 101 Certificate.

2. Shri Deshmukh, learned Advocate appearing on behalf of respondent No. 5 - Credit Society submits that the letter of the Assistant Registrar dated 16/04/2014 is misleading.

Section 101 Certificate was issued on 29/05/2007 and the Assistant Registrar has expressed an impression for the period from 09/08/2007 to 16/04/2014.

3. It is made clear that if the Section 101 Certificate is found to be in order, this petition would be dismissed and liberty would be granted to the petitioner, who is the original borrower, to approach the statutory authority under Section 154 r/w (2A) of the MCS Act.

4. In order to ascertain the genuineness of the said Certificate, the learned AGP shall keep the Assistant Registrar, Co-operative Society, Bhusawal present in the Court alongwith his record with regard to the Section 101 Certificate for his region covering the period of 01/05/2007 till 31/07/2007.

5. Stand over to 15/02/2019 for "passing orders".

2. On 15.02.2019, considering the conduct of the Assistant Registrar Co-Operative Society, Bhusawal, Shri Jagdish Baburao Bari, I was constrained to pass the following Order :

"1 When this matter was called out in the morning session, the Assistant Registrar, Cooperative Societies, Bhusawal, District Jalgaon was not present. The learned AGP sought a passover.

2 The matter is called out at 05:00 pm. The Assistant Registrar, Cooperative Societies, Bhusawal is present in the

Court. He shall not be entitled for T.A. and D.A..

3 Since the said Assistant Registrar has not reported at 10:30 am despite the order of this Court, he shall pay an amount of Rs.2000/- (Rupees Two Thousand), from his personal salary, as donation for the Ghati Hospital, Aurangabad (Government Medical College and Hospital, Aurangabad), to be deposited with the Medical Officer, High Court Dispensary, Aurangabad, either in cash or by Demand Draft, to be drawn in the name of "Dean, Government Medical College and Hospital Dengi Samiti, Aurangabad" and produce a receipt of such deposit before the Registry of this Court on or before 25.02.2019.

4 Stand over to 20.02.2019 for "passing orders". The said Assistant Registrar shall remain present in the Court."

3. In spite of above, when the matter was posted in the passing orders category, the said Assistant Registrar again was not present and the AGP had to tender an apology and seek a pass over. The Assistant Registrar is now present at 2.30 p.m. before the Court.

4. Considering the recurring conduct of Shri Bari, he is now directed to deposit an amount of Rs. 5,000/- from his personal salary as donation to the Ghati Hospital, Aurangabad (Government Medical College and Hospital, Aurangabad), to be deposited with the Medical Officer, High Court Dispensary, Aurangabad, either in cash or by

Demand Draft, to be drawn in the name of "Dean, Government Medical College and Hospital Dengi Samiti, Aurangabad" on/or before 08.03.2019 and submit the receipt of such deposit to the Registrar (J) of this Court on/or before 14.03.2019, failing which further orders would be passed. The District Deputy Registrar, Jalgaon region shall cause an entry of his conduct in his service book, as has been recorded in the two orders of this Court and further action ,if any, is left open to the District Deputy Registrar.

5. Learned advocate for the Co-operative Society, though insists that 101 certificate is an authenticated document, he submits, on instructions from respondent No. 5 present in the Court that if the petitioner approaches the said society within three weeks from today for a one time settlement, his proposal would be placed before the Board and a decision in that regard would be taken within three months from today. Learned counsel for the petitioner concedes that the petitioner has taken loan and the out standing dues are mounting.

6. Learned advocate for the petitioner submits, on instructions, as under :

(a) Within three weeks, he would move a proposal for a one time settlement.

(b) The said one time settlement be arrived at on the basis of the directions/guidelines issued by the State Government to such Co-operative Societies.

(c) If the one time settlement is accepted, he would deposit the said amount and clear all the dues within four weeks from the date of communication of the decision.

(d) If such one time settlement dues are not paid or if the one time settlement is not arrived at, the Society would be at liberty to proceed against the petitioner, as is permissible in law.

7. Considering the above, that this petition is now disposed off. The notice before attachment dated 26.02.2014, would be kept in abeyance till a period of four weeks from the date of the one time settlement or for the period till the one time settlement proposal is rejected by the said Society, as the case may be.

8. Learned counsel for the petitioner now submits that the petitioner would deposit 50% of the assessed amount as in June 2019, if there is no one time settlement, with liberty to approach the Divisional Joint Registrar in the Revision under Section 154 of the MCS Act, and such deposit of 50% may be considered as compliance of Sub-Section 2 A. The respondent/Society is agreeable.

9. As such, the above statements are recorded and liberty is granted subject to compliance of the above.

(RAVINDRA V. GHUGE, J.)

S.PC.