

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

**926 WRIT PETITION NO.10612 OF 2019 WITH
927 WRIT PETITION NO.10613 OF 2019
928 WRIT PETITION NO.10614 OF 2019
929 WRIT PETITION NO.10615 OF 2019 AND
930 WRIT PETITION NO.10618 OF 2019**

...
**BASWARAJ MANMATHAPPA MULE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner : Shri Ram S. Shinde
AGP for Respondent Nos. 1 and 2 : Shri S. W. Munde
...

CORAM : RAVINDRA V. GHUGE, J.

DATED : 27th AUGUST, 2019.

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PER COURT :

1. In all these matters, the same petitioner is aggrieved by the order passed by the Divisional Joint Registrar, Cooperative Society, dated 06/01/2018. Grievance is that the Revision Petitions filed under Section 154 of the Maharashtra Cooperative Societies Act, have been dismissed since the petitioner could not comply with sub-section (2A) which mandates depositing 50 % of the assessed amount before the Divisional Joint Registrar or with the bank which has extended the loan.

2. The learned Advocate for the petitioner has strenuously canvassed the following aspects :

- (a) The petitioner is an agriculturists and a businessman.
- (b) He had kept his goods comprising of cereals (Toor Dal and Moong Dal) valued at Rs. 92 Lakhs in the Omkar warehouse.
- (c) He approached the respondent No.3 Cooperative Bank for a loan of Rs. 45 Lakhs on the basis of mortgaging the entire goods kept in the warehouse.
- (d) The bank entered into an agreement with the warehouse owner on 01/08/2016 for extending the loan to the petitioner and pledging the goods to the bank.
- (e) The goods, in all 1400 qtl. disappeared from the warehouse and the petitioner immediately lodged a complaint with the bank.
- (f) The petitioner then approached the concerned police station with his complaint. Since no action was taken, he approached the Superintendent of Police, who also did not deal with the complaint.
- (g) The petitioner, therefore, approached the Court by

lodging a private complaint under Section 156(3) of the Code of Criminal Procedure and it was thereafter that the Court directed the registration of an FIR against the warehouse owner.

(h) The bank initiated action of recovery under the Cooperative Societies Act and a recovery certificate under Section 101 was issued on 14/10/2017.

(i) The petitioner does not have the funds to deposit 50 % of the assessed amount under sub section (2A) of Section 154.

3. Having considered the submissions of the learned Advocate for the petitioner and upon considering the law laid down by the learned Division Bench of this Court in the matter of *M/s Shewalkar Developers Vs. Rupee Co-operative Bank Ltd., 2016 (1) Mh.L.J. 382*, I called upon the learned Advocate for the petitioner as to whether he is willing to deposit Rs. 25 Lakhs which is about 50 % of the recoverable amount, with the bank. The learned Advocate for the petitioner submits that it is not possible for the petitioner to do so.

4. In *Shewalkar Developers (supra)*, this Court has concluded that a blanket stay should not be granted and 50 % of the amount which is to be recovered, should be deposited in the Court.

5. Considering the inability on the part of the petitioner in making such payment and keeping in view that if a conditional ad interim protection is granted with the condition being practically impossible to be implemented, no relief could be granted to the petitioner in view of the mandatory effect of Section 154 (2A).

6. In view of the above, these petitions are dismissed.

7. Needless to state, the dismissal of these petitions would not come in way of the petitioner in initiating action or legal proceedings against the warehouse owner, as may be permissible in law.

(RAVINDRA V. GHUGE, J.)

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