IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12915 OF 2018

Lahanu Murlidhar Mundhe and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri R. N. Dhorde, Senior Advocate i/by Shri V. R. Dhorde, Advocate for the Petitioner.
Shri S. G. Karlekar, A.G.P. for Respondent Nos. 1 to 3.
Shri N. R. Bhavar, Advocate for the Respondent No. 4.

CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.
DATE : 19TH AUGUST, 2019.

FINAL ORDER :

. The permission sought by the petitioner U/Sec. 107 of the Maharashtra Co-operative Societies Act (for short "said Act") to assail the order passed by the liquidator is rejected.

2. Mr. Dhorde, the learned senior advocate for the petitioner submits that, the application filed by the petitioner seeking permission to assail the order passed by the Deputy Registrar/respondent No. 3 under Section 105 of the said Act and the certificate U/Sec. 98 of the said Act is rejected without hearing the petitioner and without any justifiable reason. The

learned senior advocate submits that, the merits of the proceedings cannot be considered at the stage of deciding application U/Sec. 107 of the said Act. The learned senior advocate relies on the judgment of the learned Single Judge of this Court in a case of **Narayan S/o Arjunji Vighne and others Vs. State of Maharashtra and others** reported in ***2011(1) All M. R. 244***.

3. The learned Assistant Government Pleader for respondent Nos. 1 to 3 submits that, the liquidator has crystallized the amount recoverable from the petitioner and the certificate has been rightly issued by the Deputy Registrar. In view of that, no permission can be granted to the petitioner to assail the same.

4. Mr. Bhavar, the learned counsel appears for the liquidator and submits that, as per the record order has been passed by the liquidator and the certificate is rightly issued U/Sec. 98 of the said Act.

5. It appears that, U/Sec. 105 of the said Act the liquidator has crystallized dues payable by the petitioner. Said order was passed without notice to the petitioner and without hearing the petitioner as contended by the learned senior advocate for the petitioner. Thereafter certificate has been issued by the authority under Section 98 of the said Act. These orders are

passed according to the petitioner in absence of the petitioner. The petitioner is making grievance regarding non observation of principles of natural justice. It is trite that merits of the claim may not have been considered while considering application for grant/refusal of the permission.

6. Considering the above, the impugned order is quashed and set aside. The respondent No. 4 shall grant permission to the petitioner to assail the order of the liquidator and certificate issued against the petitioner. The writ petition accordingly is allowed. No costs.

[MANGESH S. PATIL, J.] **[S. V. GANGAPURWALA, J.]**

bsb/August 19