

ISM

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

WRIT PETITION NO. 7010 OF 2019

Shahaji Annasaheb NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operativeRespondents
Soc., Pune and others

**WITH
WRIT PETITION NO. 7011 OF 2019**

Ashwini Shahaji NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operativeRespondents
Soc., Pune and others

**WITH
WRIT PETITION NO. 7012 OF 2019**

Malan Sambhaji NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operativeRespondents
Soc., Pune and others

**WITH
WRIT PETITION NO. 7013 OF 2019**

Shamal Shahaji NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operative Soc., Pune and othersRespondents

**WITH
WRIT PETITION NO. 7021 OF 2019**

Yashoda Annasaheb NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operative Soc., Pune and othersRespondents

**WITH
WRIT PETITION NO. 7014 OF 2019**

Vinayak Shahaji NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operative Soc., Pune and othersRespondents

**WITH
WRIT PETITION NO. 7015 OF 2019**

Vrushali Dhanaji NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operative Soc., Pune and othersRespondents

**WITH
WRIT PETITION NO. 7016 OF 2019**

Vanmala Babanrao NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operative
Soc., Pune and othersRespondents

**WITH
WRIT PETITION NO. 7017 OF 2019**

Sambhaji Annasaheb NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operative
Soc., Pune and othersRespondents

**WITH
WRIT PETITION NO. 7018 OF 2019**

Rohini Babanrao NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operative
Soc., Pune and othersRespondents

**WITH
WRIT PETITION NO. 7020 OF 2019**

Vishwas Babanrao NaganePetitioner

V/s.

The Divisional Joint Registrar, Co-operative
Soc., Pune and others

....Respondents

**WITH
WRIT PETITION NO. 382 OF 2019**

Dhanaji Annaso Nagane and another

....Petitioners

V/s.

The Divisional Joint Registrar, Co-operative
Soc., Pune and others

....Respondents

Mr. Sarang Satish Aradhye for the Petitioners
Mr. Machhindra A. Patil for respondent no. 3
Mr. A. B. Kadam AGP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : JULY 4, 2019.

P.C.

In this group of petitions, since a common issue is raised, same by consent are tagged and taken up for final disposal.

2 Heard Shri. Aradhye for the petitioners, learned AGP for respondent nos. 1 & 2 and Shri. Patil for respondent no. 3. The challenge is to the order dated 9/03/2014 passed in Revision Application No. 209 of 2011 and the recovery certificate issued

under Section 101 of The Maharashtra Co-operative Societies Act, 1960 ('the Act' for short) on 24/09/2008.

3 The facts necessary for deciding all these petitions are as under:

(i) Petitioners in all these petitions are closely related to each other and have obtained loan from respondent no. 3-Credit Co-operative Society. The failure to repay the loan has resulted into respondent no. 3, approached Registrar, Co-operative Societies for issuance of recovery certificate under Section 101 of the Act. Accordingly, recovery certificates came to be issued, which I am informed, dues against which are not cleared till date inspite of lapse of ten years.

(ii) Feeling aggrieved, the petitioner preferred Misc. Application alongwith Revision under Section 154 of the Act praying for condonation of delay. All these applications for condonation of delay were allowed subject to payment of cost by the order dated 04/05/2011.

(iii) The Revisions as such preferred by the petitioner were tagged together and heard by the Divisional Joint Registrar. These Revisions were dismissed by the order impugned dated 19/03/2014. As such, these petitions.

4 The learned counsel for the petitioner Shri. Aradhye would strenuously urge that all the petitioners are having a very good case on merit. According to him, the fact remains that failure on the part of the petitioners to comply with Sub-Section 2A of Section 154 of the Act whereby deposit of 50% of the amount is mandatory since was not complied with, Revisions are dismissed. He submits that petitioners are ready and willing to deposit 50% of the amount as prayed in the petition, as such, Revisions need to be restored. Pursuant to the aforesaid submissions, this Court on 03/07/2019 adjourned the petition to 04/07/2019 so as to test the bonafides of the petitioner. The petitioner on 03/07/2019 submitted that he shall deposit 50% of the amount in this Court by today i.e. 04/07/2019, however, petitioner has failed to do so. Today, during

the course of hearing, the learned counsel for the petitioner submits that some more time be granted to report compliance under Section 154(2A) of the Act.

5 The submissions are objected by the learned counsel for the respondent-bank as according to them, total outstanding is more than Rs. 30 Lakhs and the petitioners offered to deposit 14 Lakhs that too after period of 4 weeks.

6 If the aforesaid contentions are appreciated in the light of submissions made by respondent, what can be noticed is, recovery certificate issued in 2009 is not honoured by the petitioner till date.

7 Against the order of issuance of recovery certificate, petitioner has preferred Revision under Section 154A which was delayed during which course, a similar assurance was made. The delay was condoned way back in 2010 which was caused in preferring the Revision, however, till date, petitioner has neither complied with mandate under Section 154(2A) of the Act. The fact remains that the

order impugned passed against the petitioner dated 19/03/2014 is challenged before this Court in 2019. For such delayed action, no convincing explanation is given by the petitioner. Petition as such suffers from inordinate delay and latches that too of almost 5 years.

8 This Court in catena of Judgments has already held that deposit contemplated under Section 154 (2A) of the Act is mandatory and not directory. Petitioner has come out with a prayer in the petition that he is ready and willing to deposit 50% of the amount and same be directed to be accepted. In spite of such prayer, though time is given to petitioner to show his bonafides by depositing the amount, petitioner has failed to do so. Petitioner, in spite of recovery certificate in all these matters has not cleared debts till date.

9 In the aforesaid background, no case for interference in all these petitions made out. All these petitions as such fail, stand dismissed.

[NITIN W. SAMBRE, J.]