

WRIT PETITION No. 119 OF 2016

... Petitioner

Pat Sanstha Ltd. & Ors.

... Respondents

Mrs. S. S. Bhende, AGP for the Respondent Nos. 3 & 4.

DATE : FEBRUARY 18, 2019

1. Heard the learned counsel for the Petitioner, the learned counsel for Respondent No. 1 Society and the learned AGP appearing for Respondent Nos. 3 and 4. Although various prayers have been made in the writ petition, we find from the pleadings, essentially the complaint made by the Petitioner appears to be that the Petitioner had been defrauded by one Dilip Gajanan Lonkar, Manager of Respondent No. 1 for making certain investment and thereafter applying for the loan, who claims to have paid the loan.

Thereafter he made complaints of fraudulent transactions. Recovery certificate proceedings were initiated against him. We are of the considered view that based on such assertions various reliefs have been sought. We find that the nature of allegations made are essentially criminal in nature and the Petitioner ought to have file FIR in the said matter, and if the FIR is not registered for any reasons, then the process of law is available for registration of the FIR.

2. The learned counsel for the Petitioner asserts that 100s persons have been defrauded by the Manager of Respondent No. 1 Society. Consequently, we find no reason as to why Petitioner ought not to have approached the concerned police station for lodging an appropriate FIR. Apart from the same, we find that the impugned order herein is an order passed under recovery certificate proceeding, under S. 100 of the Maharashtra Co-Operative Societies Act, 1960 and against the said order the statutory remedy available is revision under S. 154 of the said Act. Consequently, we decline to entertain this petition. Hence, the following order:

Order

- (i) Writ petition is disposed of with liberty to the Petitioner to avail of the alternate remedy of revision available in law.
- (ii) If such a revision is filed by the Petitioner within four weeks, with an application for condonation of delay, the concerned authority shall take into account the fact of pendency of this petition, and without being influenced by any of the observations made hereinabove, the same may be decided on merits and in accordance with law.

Sd/-

[SARANG V. KOTWAL, J.]

Sd/-

[INDRAJIT MAHANTY, J.]

Vinayak Halemath