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

CIVIL WRIT PETITION NO.8037 OF 2016

Shri Gurudatta Nag. Sah. Pat. Sau.Ltd

..Petitioner

Vs

Dr. Sunetra Sanjay Patil & Ors.r

..Respondents

Mr. Subhash W. Baviskar, Founder and Chairman of Petitioner present in person.

CORAM : A.S.GADKARI, J.

DATE : 23rd September 2019.

P.C.:

1] By the present petition under Article 227 of Constitution of India, the petitioner has impugned the Judgment and Order dated 8th March 2016 passed by the learned Member, Maharashtra State Co-Operative Appellate Court, (Mumbai Bench), Pune in Appeal No.181 of 2015 dismissing the said appeal and confirming the Judgment and Order dated 1.10.2015 passed by the learned Judge, Co-Operative Court No.1, Pune dismissing the Dispute No.54 of 2009 filed by the petitioner.

2] Heard Mr, Baviskar, who appears in person as Founder and Chairman of Petitioner Credit Society at length. Perused the record annexed to the petition.

3] The record indicates that, the petitioner had advanced a loan of Rs.20,000/- on 29.7.2004 to the respondent No.1. The respondent Nos.2 and 3 are the guarantors to the said loan. It is contended that, while advancing the said loan the Petitioner Credit Society got executed necessary documents in that behalf. As the respondent No.1 failed to repay the said loan amount, the petitioner sent a final intimation-cum- notice dated 14.4.2009 claiming total outstanding amount of Rs.38,429/- payable by the respondent No.1.

As the respondent No.1 did not pay the said amount of Rs.38,429/-, the petitioner filed Dispute bearing No.54 of 2009 on 28.5.2009 in the Co-Operative Court No.1, Pune. The Trial Court after recording evidence and after hearing the parties, dismissed the said Dispute by its Judgment and Order dated 1.10.2015. Appeal No.181 of 2015 preferred by the petitioner had also been dismissed by the Appellate Court by its Judgment and Order dated 8th March 2016.

4] Mr. Baviskar submitted that, both Authorities below have not taken into consideration the documents executed by the respondent No.1 at the time of accepting the loan. He submitted that, both Courts below have committed grave error in appreciating the evidence on record including documents pertaining to the advancement of loan to the respondents. He therefore prayed that, the impugned Judgments and Orders may be quashed and set aside by allowing the present petition.

5] A minute perusal of the record would indicate that, the petitioner credit society has failed to prove even the basic fact that, the respondent No.1 executed documents of loan in favour of the petitioner. The record further indicates that, Mr. Baviskar himself led evidence on behalf of the petitioner credit society. In his cross-examination, he has admitted that, he produced on record, certified copy of the original documents which have been certified by himself. He has admitted that, the said documents are not certified by any Notary. He has further admitted that, he had no authority under the law to certify the said documents in question.

The evidence available on record clearly reveals that, the petitioner has failed to prove the fact that the respondents are members of the Petitioner Credit Society. That the respondent No.1 has taken loan of Rs.20,000/- on 29.4.2006. That the respondents have executed loan documents in favour of the petitioner and the petitioner society has failed to prove the fact that, it is entitled to recover an amount of Rs.38,429/- from the respondents.

6] After perusing the entire record, it is seen that the findings recorded by the Trial Court are based on the evidence available on record and material admissions given by Shri Baviskar in his evidence. It further appears that, the admissions extracted by the respondents from the evidence of petitioner are detrimental to the interest of the petitioner.

The Appellate Court after reappreciating the entire evidence available on record has dismissed the said appeal preferred by the petitioner.

7] After perusing the impugned Judgments and Orders passed by both Courts below, this Court is of the considered view that, both the Courts below have not committed any error either in law or on facts while passing it.

Writ Petition being de hors of merits, is accordingly rejected.

(A.S.GADKARI, J.)