

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

CIVIL WRIT PETITION NO.5122 OF 2016

M/s.K.K. Enterprises
Through Mr.Ketan Shah & Ors. ..Petitioners
V/s.
Divisional Joint Registrar,
Co.Op. Soc.& Ors. ..Respondents

Mr.H.V. Shekhawat for the Petitioners.

Mr.V.C. Ghosalkar for Respondent No.1.

Mr.A.P. Vanarse, AGP for the Respondent No.1-State.

CORAM : C.V. BHADANG, J.

DATE : 17th DECEMBER 2019

P.C.

1. The challenge in this petition is to the order dated 05th March 2016 passed by the first Respondent in Revision Application No.4 of 2016 and an order dated 01st December 2015 passed by the second respondent in Recovery Application No.101/1238/2014.

2. The brief facts are that the third respondent has filed aforesaid recovery proceedings against the petitioners and the respondent Nos.4 to 6 for recovery of the loan amount under Section 101 of the Maharashtra Co-operative Societies Act, 1960

(‘Act’ for short). According to the third respondent, the petitioners are the guarantors to the said loan.

3. The petitioner’s during the pendency of these proceedings filed an application before the District Deputy Registrar seeking following reliefs ;

“(a) That this Hon’ble Court be pleased to pass an order and direction to return the present application to the Bank directing Bank to file before Maharashtra Co-Operative Court under Section 91 of MCS Act.

(b) Pending the hearing and final disposal all further proceedings in the above matter to be stayed.

(c) For such further order and direction, this Opponent shall remain obliged.”

4. In short according to the petitioners the signatures on the loan document purported to be that of the petitioners are forged and the petitioners never stood as guarantors to the said loan.

5. The learned District Deputy Registrar by an order dated 01st December 2015 has refused to entertain the application which order was challenged by the petitioner before the Divisional Joint

Registrar. The Divisional Joint Registrar by the order dated 05th March 2016 has found that the authorities under the Act did not have jurisdiction to decide the validates of the documents or signature and the petitioners have not produced any report to show that the signatures on the loan documents are forged. In that view of the matter the revision application is dismissed.

6. The only contention raised on behalf of the petitioner is that the District Deputy Registrar ought to have referred the matter to the Co-operative Court. A specific query was made to the learned counsel for the petitioner, as to under what provision the Deputy Registrar can pass an order referring the matter to the Co-operative Court to which no provision was pointed out.

7. The learned counsel for the third respondent-bank points out that hearing in the recovery application under Section 101 of the Act is completed and the proceedings have been closed for orders way back in the year 2015. It is submitted that although there is no stay operating in the present petition, the proceedings are kept pending on account of the pendency of the present petition such a situation certainly cannot be countenanced.

8. In any event the contention as raised on behalf of the petitioner cannot be accepted at this stage. The petition is without any merit and is accordingly dismissed, with no order as to costs.

9. The District Deputy Registrar to decide the recovery application on its own merits and in accordance with law, within a period of three months from today.

[C.V. BHADANG, J.]