

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

WRIT PETITION NO. 7942 OF 2019

Janakalyan Sahakari Bank Ltd., ... Petitioner.

V/s.

The Divisional Joint Registrar, Co-operative
Societies, Mumbai & Ors. ... Respondents.

Mr. Saket Ketkar, Advocate, for the Petitioner.

Mr.A.B.Kadam, AGP for the State-Respondent Nos.1 &
2.

Mr.Shashank C. Mangle, Advocate for Respondent Nos.
3, 4 & 5.

CORAM : UJJAL BHUYAN, J.

DATE : NOVEMBER 13, 2019.

PC :

1 Heard Mr. Ketkar, learned counsel appearing
for the Petitioner, Mr. A.B.Kadam, learned AGP for the
State/ Respondent Nos.1 & 2 and Mr. Mangle, learned
counsel for Respondent Nos. 3 to 5.

2 In this petition filed under Article 227 of the
Constitution of India, Petitioner seeks quashing of
order dated 08.03.2019 passed by Respondent No.1,
dismissing the application filed for recall of Roznama
order dated 28.03.2016.

3 Considering the limited nature of the controversy in the Writ Petition, a detailed reference to the facts may not be necessary. Suffice it to say that Petitioner is a Co-operative Bank, registered and functioning under the provisions of the Maharashtra Co-operative Societies Act, 1960. Respondent Nos. 3 to 5 availed loans from the Petitioner Bank but, according to the Petitioner, said Respondents failed to repay their respective loan amounts.

4 Petitioner obtained recovery certificates against Respondent Nos. 3 to 5 from Respondent No. 2, bearing Recovery Certificate Nos. 3448, 3447 & 3446 of 2004. Against the said recovery certificates, Respondent Nos. 3 to 5 preferred revision applications before Respondent No.1, which were registered as Revision Application Nos. 628, 629 and 630 of 2013. In the revision applications, Respondent No. 1 passed a suo-moto order dated 28.03.2016, calling report from "the Flying Squad" regarding loan accounts of Respondent Nos. 3 to 5. Petitioner filed applications before Respondent No.1, for recall of the aforesaid order dated 28.03.2016. By order dated 08.03.2019, the said applications filed by the Petitioner, were rejected.

5 Aggrieved, present Writ Petition has been filed.

6 In the order dated 08.03.2019, Respondent No.1 held as under :

“It is pertinent to note that the Applicants herein in the present cases have raised the grounds that the Respondent Bank has not given the requisite documents on basis of which the Bank had made its claim and that not properly maintained the records as required by the RBI and the statue as well. Further, the Applicant had no knowledge of the fact that as to when the Account No. 276 was changed to 3752 and the same become overdrawn after 17.07.2000. Further the Applicants herein are seeking refund alongwith the interest @ 18% from the Respondent Bank.

Therefore, considering the contentions of rival parties, it seems that the Ld. Predecessor of this Authority have called the report from the Special Authority (Fly Squad) attached to this office for verification of Applicant's loan accounts and statement/ documents etc. I am of the opinion that by calling the aforesaid report no harm or prejudiced shall cause to the concerned parties. Whereas the aforesaid cases may be decided on merits and in accordance with law after verifications of the loan accounts statements relevant documents etc.. Further it is pertinent to note that during the course of hearing on 28.03.2016, one Mr. A. R. Singh, the

representative of the Respondent Bank was also remained present. Therefore, the rozanama / order dated 28.03.2016 is not ex-parte order.

Further, in pursuance to the aforesaid Applications, it is pertinent to note that recalling this Authority's own order means revoking own order/ decision. This Authority is not permitted for recalling its own order under the provisions of M.C.S. Act, 1960.

In view of the above observations, I have come to the conclusion that this Authority has no jurisdiction to entertain the Applications for Recall of order dated 28.03.2016 issued by the Ld. Predecessor of this Authority."

7 Though the second part of the order dated 08.03.2019, as extracted above, may not reflect the correct proposition, but the fact is that calling for a report from "the Flying Squad" of the loan accounts of Respondent Nos. 3 to 5, would not cause prejudice to either of the parties, cannot be disputed or doubted. Rather such a course of action would assist the authority to arrive at a correct conclusion. Court is unable to find or trace out any legal injury that would be caused to the Petitioner by the order dated 28.03.2016, in the absence of which, writ petition cannot be sustained.

8 In the light of the above, court finds no merit in the Writ Petition and the same is liable to be dismissed accordingly.

9 However, having noted the above, Respondent No. 1 may expedite hearing of the Revision Applications after receipt of report from “the Flying Squad”, as referred to above.

10 Subject to the above, Writ Petition is dismissed.

(UJJAL BHUYAN, J.)

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