

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4605 of 2019

Smt. Dilip s/o Mahadeorao Shambharkar

Versus

Special Recovery Officer,

Nagpur District Central Co-operative Bank Ltd., Nagpur, and others.

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's
orders
and Registrar's order

Shri S.N. Nandeshwar, Advocate for Petitioner.

Shri M.B. Agasti, Advocate for Respondent Nos.1 and 3.

Shri S.D. Ingole, Advocate for Respondent No.2.

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Date : 9th September, 2019

As per the certificate dated 20-1-2017 issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960, the dues outstanding against the petitioner were of Rs.6,05,989.97. The petitioner did not challenge the validity or correctness of the certificate by filing a statutory appeal or a revision, as is permissible under the law. Thus, the certificate has attained the finality.

The salary account of the petitioner, bearing No.366002010061584, in the respondent No.2- Union Bank of India was attached for recovery of the amount under the certificate. It is informed to us that as on this date, the outstanding amount is of Rs.10,00,000/-, which the petitioner disputes.

We entertained this petition and passed the orders from

time to time, as we wanted the respondent No.2- Union Bank of India to conform to the requirements of Section 60 of the Code of Civil Procedure while attaching the salary account of the petitioner in the respondent No.2- Bank. Now before us, it is admitted by the respondent No.3- Nagpur District Central Co-operative Bank Ltd., which advanced the amount of loan to the petitioner, that the salary account of the petitioner can be attached only to the extent of Rs.17,514/- per month to recover the amount covered under the certificate issued under Section 101 of the said Act. Prior to it, the entire account was attached for recovery of the amount of loan. We will have, therefore, to direct the respondents to restrict the attachment of the salary account of the petitioner only to the extent of Rs.17,514/- per month.

In the result, this petition is disposed of, granting liberty to the respondent No.3- Nagpur District Central Co-operative Bank Ltd. to maintain its attachment in the salary account of the petitioner in the respondent No.2- Union Bank of India only to the extent of Rs.17,514/- per month to be recovered towards realization of the amount under the certificate issued under Section 101 of the said act.

We make it clear that we are not going to re-open the certificate issued under Section 101 of the said Act, which has attained the finality.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)