

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

WRIT PETITION NO.4187 OF 2018

M/s Vatsalaya Realities, Rahate Colony, Dhantoli, Nagpur

-vs-

Shikshan Sahakari Bank Ltd. Nagpur and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms A. S. Athalye, Advocate for petitioner.
Shri N. L. Jaiswal, Advocate for respondent No.1.
Shri V. A. Thakare, Assistant Government Pleader for
respondent No.2.

CORAM : A.S.CHANDURKAR, J.

DATE : June 24, 2019

In the light of notice for final disposal issued earlier, the learned counsel for the parties have been heard at length.

The petitioner has raised a challenge to the order dated 02/05/2018 by which Recovery Certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (for short, the said Act) for an amount of Rs.2,64,68,065.46 has been issued.

2. On behalf of the respondent No.1 a preliminary objection has been raised that remedy under Section 154 of the said Act is available to the petitioner but the same has not been so availed.

3. The learned counsel for the petitioner by placing reliance

upon the decisions in *Sundeep Polymers Pvt. Ltd. And ors. vs. State of Maharashtra and ors. 2010(6) ALL 550* and *Shireen Sami Gadiali and anr. vs. Spenta Co.op. Housing Society Ltd. and ors. 2011(3) Mh.L.J. 486* submits that as the necessary documents that were demanded by the petitioner in the proceedings before the Assistant Registrar were not supplied, there is a breach of Rule 86(A-4) of the Maharashtra Co-operative Societies Rules 1961. There was no proper opportunity to the petitioner to contest the proceedings. It is thus submitted that considering the law laid down in the aforesaid decisions, the writ petition deserves to be entertained.

3. This Court on 04/05/2019 recorded a statement made on behalf of the petitioner that the petitioner would pay an amount of Rs.25,00,000/- to the respondent No.1-Bank within period of four weeks without prejudice to its rights. However, till date though period of almost eight weeks has since expired the said amount has not been so deposited. It is seen that various disputed questions arise for adjudication in the light of the submissions on behalf of the respondent No.1 and I am therefore inclined to permit the petitioner to avail the statutory remedy as prescribed by Section 154 of the said Act.

4. Accordingly, the petitioner is granted liberty to avail remedy under Section 154 of the said Act within period of four weeks from today. If such revision application is preferred by complying with the prescribed statutory requirements within period of four weeks, the said proceedings shall be entertained on merits without going into the question of delay. The points raised in the writ petition are kept open.

The Writ Petition is disposed of in aforesaid terms. No costs.

JUDGE