

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

WRIT PETITION NO. 144/2017

The Nagpur District Central Co-operative Bank Ltd.

..VS..

Narkhed Taluka Shetki Sahakari Kharedi Vikri Sanstha Ltd.

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

Court's or Judge's orders

Shri S.M. Samarth, Adv h/f Shri M.V. Samarth, Adv for the petitioner

CORAM : Z.A.HAQ, J.
DATED : 14/01/2019

Heard.

The petitioner – Bank has challenged the orders passed by the Subordinate Courts concurrently rejecting the claim of the petitioner – Bank for an award for recovery of amount of Rs. 4,45,789.40 ps. from the respondent – Co-operative Society. Both the Courts have concurrently recorded that the petitioner – Bank has failed to prove the loan transaction and the factum of disbursement of the loan amount.

The petitioner – Bank has filed an additional affidavit sworn on 19/12/2018 and alongwith it, photo copies of several documents are placed on record. One of the submission is that the impugned award be set aside and the matter be remanded to the Co-operative Court for deciding the dispute afresh.

The photocopies of the documents placed on record alongwith the additional affidavit cannot be considered. It goes unexplained as to why the petitioner – Bank has not adopted the proper procedure and why an application under Order 41 Rule 27 of the Code of Civil Procedure is not filed. The petitioner – Bank has not been able to satisfy as to why the documents were not filed either before the Co-operative Court or atleast before the Co-operative Appellate Court.

According to the petitioner, the loan was given to the respondent – Co-operative Society in 1989. The manner in which the proceedings are conducted creates a doubt about the bonafides of the petitioner – Bank to recover the amount from the respondent – Co-operative Society.

In the facts of the case, I am not inclined to interfere in the matter.

The writ petition is **dismissed** with costs quantified at Rs. 20,000/- (Rs. Twenty Thousand) to be deposited by the petitioner – Bank with the High Court Legal Services Sub-Committee, Nagpur.

The petitioner – Bank shall file an affidavit of compliance regarding deposit of the amount of costs, within two months.

JUDGE