

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

903 WRIT PETITION NO.263 OF 2020

1 Atul S/o Prakash Torde,
Age: 46 years, Occu: nil,
R/o Shahada, Tq. Shahada,
Dist. Nandurbar

2 Prakash Prasad Torde,
Age: 72 years, Occu: nil
R/o As above.

Petitioners

versus

Pandit Dindayal Upadhyay Nagari Sahakari
Patsanstha, Shahada, Tq. Shahada,
Dist. Nandurbar
Through It's Manager,
Shri Sanjay S/o Motilal Bafna
Age: 40 Years, Occu: Service,
R/o Shahada, Tq. Shahada,
Dist. Nandurbar

Respondent

...
Mr. Salunke Pradeep B., Advocate for Petitioners
Mr. Savale Amit S., Advocate for Respondent
...

CORAM: ROHIT BABAN DEO, J.

Date: JANUARY 10th, 2020
...

ORAL JUDGMENT

1 Rule. Rule is made returnable forth with.

2 The limited grievance of the petitioner is that the Cooperative Court, while allowing Exhibit 26, which is an application, seeking temporary injunction restraining the non-applicant society, from initiating recovery, was pleased to order the petitioner to deposit 50% of the decretal amount which comes to Rs.5,25,808/-.

3 The submission is that the dispute came to be decreed *ex parte* by the Cooperative Court. The petitioner applied for restoration of the dispute and in such restoration proceeding, moved an application for temporary injunction. The learned counsel submits that considering that the application for restoration is pending, the direction to deposit 50% of the decretal amount is onerous. The said order was unsuccessfully carried before the cooperative Appellate Court.

4 The learned counsel for the society who has appeared on caveat is strongly opposing the petition. The learned counsel would submit that the petitioner is habitual defaulter. Submission is that the petitioner has also defaulted in repayment of loan obtained from other cooperative societies.

5 Considering that the Restoration application is pending and that if the application for restoration is allowed, the cooperative Court would be revisiting the issue of deposit of decretal amount in whole or in part, I am satisfied that ends of justice would be served, if the order impugned is modified and instead of 50% of the decretal amount, petitioner is directed to deposit 25% of the decretal amount within seven days in the Cooperative Court.

It is made abundantly clear that if 25% of the decretal amount is not deposited within seven days, this order shall stand revoked and the respondent bank shall be at liberty to forthwith

execute the Judgment of the Cooperative Court.

6 With this modification and direction, rule is made absolute.

7 Petition is disposed of.

(ROHIT BABAN DEO, J)

vbd