

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

33 WRIT PETITION NO.1120 OF 2019

SUDHAKAR VENKATRAO TAT AND ANOTHER
VERSUS
FULCHAND NAMDEO GAIKWAD

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Advocate for Petitioners : Mr. Kute Rajendra L.
Advocate for Respondent-sole : Mr. V. B. Anjanwatikar

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CORAM : V. K. JADHAV, J.
DATED : 13th JANUARY, 2020

PER COURT:-

1. Leave to add prayer clause pertaining to the issuance of the order of non-bailable warrant passed by the District Consumer Redressal Forum owing to the absence of the petitioners herein in the proceedings initiated by the respondent under Section 27 of the Consumer Protection Act, 1986.

2. The respondent/original complainant had filed a complaint before the District Consumer Redressal Forum, Beed and by order dated 24.05.2016 the District Consumer Redressal Forum has allowed the complaint. Being aggrieved by the same, the petitioners had preferred an appeal before the State Consumer Dispute Redressal Commission, Mumbai, Circuit Bench at

Aurangabad along with Miscellaneous Application No. 2 of 2017 seeking condonation of delay occurred in preferring the said appeal. However, the Presiding Member of the State Consumer Dispute Redressal Commission has dismissed the application seeking condonation of delay in preferring the appeal. Consequently, the respondent/original complainant has filed execution proceedings in terms of the provisions of Section 27 of the Consumer Protection Act, 1986. The petitioners appeared in those proceedings and filed their say and raised various objections including the objection that in case of the complaint against the society for non payment of dues, the Directors and the Members of the Managing Committee can not be held personally liable to pay the dues. The said proceedings under Section 27 are still pending before the District Consumer Redressal Forum. Learned counsel for the petitioners placed his reliance in the case of **Sau. Varsha Ravindra Isai v. Sou. Rajashri Rajkumar Chaudhari and others**, reported in, **AIR 2011 Bombay 68**, wherein, in paragraph no. 22, this Court (Coram : R. M. Borde, J.) has made the following observations :

“22. As has been recorded above, I am of the view that a society registered under the provisions of Maharashtra

Co-operative Societies Act, 1960, although can be proceeded against and a complaint under the provisions of Consumer Protection Act is entertainable against the society, the Directors or members of the managing committee cannot be held responsible in view of the scheme of Maharashtra Co-operative Societies Act. To hold the Directors of the banks/members of the managing committee of the societies responsible, without observing the procedure prescribed under the Act, would also be against the principles of co-operation, which is the very foundation of establishment of the Co-operative societies.”

3. In the instant case, though the petitioners herein have not raised any objection to the extent as per the ratio laid down by this Court in the case of **Sau. Varsha Ravindra Isai v. Sou. Rajashri Rajkumar Chaudhari and others** (supra), however, the petitioners have raised objection to that effect in the proceedings under Section 27 of the Consumer Protection Act, 1986 initiated by respondent/original complainant against them before the forum. Thus, in the pending proceedings, the petitioners herein can raise and substantiate those objections in the light of the ratio by this Court in the case of **Sau. Varsha Ravindra Isai v. Sou. Rajashri Rajkumar Chaudhari and others** (supra). Thus, keeping all the

points open, this Writ Petition is partly allowed to the extent of the non-bailable warrant issued by the Forum. Hence the following order:

ORDER

- I. The Writ Petition is partly allowed.
- II. The order dated 10.09.2018 passed by the District Consumer Redressal Forum, Beed, issuing non-bailable warrant against the petitioners herein (original respondents) is hereby quashed and set aside.
- III. The petitioners shall appear before the District Consumer Redressal Forum, Beed and raise all the grounds available to them and it is for the District Consumer Redressal Forum to dispose off the said proceedings initiated under Section 27 of the Consumer Protection Act, 1986 in accordance with law.

(V. K. JADHAV, J.)

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