

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

8. WRIT PETITION NO. 1046 OF 2020

Deogiri Nagari Sahakari Patsanstha Ltd.,
Branch Golegaon Taluka & Dist. Aurangabad
through its authorized officer Shri Ajinath Eknath Jadhav,
age 41 years occupation service
R/o Gat No. 21/1, plot No. 1, Raje Sambhaji Nagar,
Galli No.2, behind Chhatrapati Hall, Harsool,
Aurangabad Taluka and Dist. Aurangabad ...Petitioner

Versus

Ravindra S/o Ramdas Kakade
age 38 years occupation service
R/o Dhanora Taluka Sillod Dist. Aurangabad. ...Respondent

Mr. A.A. Khande, Adv., h/f. Mr. G.V. Sukale, Adv. for petitioner

CORAM : ROHIT B. DEO, J.

DATE : 27th January, 2020

PER COURT :

1. The petitioner instituted a dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960 (for short "The Act") seeking recovery of an amount of Rs. 10,56,597/- from the respondent. The dispute is dismissed by the Co-operative Court, Aurangabad, vide judgment and award dated 15th October 2016 and the appeal bearing No. 113/2016 preferred by the petitioner is

dismissed on 19th October 2018. The petitioner is in writ jurisdiction being aggrieved by the concurrent orders of the Courts below.

2. The petitioner is a Co-operative society, registered under the Act. Irrefutably, the respondent was an employee of the petitioner and from 7th May 2005 to 30th July 2008 he was working as Manager of Golegaon Branch Taluka Sillod. It is not in dispute that since the petitioner was transferred to the Head Office, he resigned on 1st August 2008.

3. The dispute is predicated on the claim that between 7th May 2005 to 30th July 2008, the respondent-Manager misappropriated Rs. 12,56,597/-. According to the petitioner, the respondent-employee returned/repaid Rs. 2,00,000/- and, therefore, the disputed claim is restricted to Rs. 10,56,597/-.

4. The defence of the employee was that he did not misappropriate any amount and that since after resigning from the petitioner-society he joined services of its rival society and managed to persuade the customers of the petitioner-society to shift their accounts to its rival society, out of revenge the petitioner is persecuting him. The employee further contended that he did not admit the misappropriation nor did he issue cheque for Rs.

2,00,000/-. The respondent contended that the cheques, which he handed-over to the petitioner as security while joining the service, were misused and a suit is instituted before the Civil Court for recovery of the said amount.

5. Both the Courts have concurrently noted that the petitioner did not produce on record the audit report of the Government Auditor. According to the petitioner society, two employees, including B.A. Pawar, conducted internal audit. Both the Courts have rightly refused to rely on the so called internal audit conducted by the two employees. The charge of misappropriation is not proved. I am satisfied that the findings of facts, which are recorded by the Courts below on the basis of evidence, do not suffer from any error, much less error warranting interference in writ jurisdiction.

6. The petition is dismissed.

(ROHIT B. DEO)
JUDGE

Madkar