

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

911 WRIT PETITION NO.14138 OF 2019

ACHYUT PURSHOTTAM RASANE
VERSUS
KALIKA NAGARI SAHAKARI PATSANSTHA LTD AHMEDNAGAR
AND OTHERS

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Advocate for Petitioner : Mr. Bhavar Nitin R.

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CORAM : V. K. JADHAV, J.
DATE : 08.01.2020

PER COURT :-

1. I do not find any substance in this Writ Petition. The petitioner has raised the dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960 (herein after referred to as 'Act of 1960') before the Co-operative Court pertaining to the loan amount. The petitioner has sought the declaratory relief in the said dispute to the effect that he never borrowed any amount from the respondent – Credit Society and that the said society has prepared the bogus documents pertaining to the said so called loan amount. It further appears that the respondent – Credit Society has raised preliminary objection before the Co-operative Court vide application

Exh.18 contending therein that the dispute / suit came to be filed when the proceedings for obtaining the recovery certificate under Section 101 of the Act of 1960 came to be initiated by the respondent – Credit Society and even against that recovery certificate, the petitioner has preferred the revision. The learned Judge of the Co-operative Court by the judgment and order dated 20.01.2018 dismissed the suit. Being aggrieved by the same, the petitioner has preferred the appeal before the Co-operative Appellate Court, Aurangabad and the learned Member of the Maharashtra State Co-operative Appellate Court, Bench at Aurangabad by the judgment and order dated 22.02.2019, dismissed the Appeal No.89 of 2018 preferred by the petitioner. Hence, this Writ Petition.

2. The learned counsel for the petitioner has vehemently submitted that the suit has been instituted for relief of declaration and as such the said suit is maintainable in terms of the provisions of Section 91 of the Act of 1960. Admittedly the proceedings for recovery certificate under Section 101 came to be initiated in time and certificate under Section 101 also came to be issued prior to institution of the suit. The learned Judge of the Co-operative Court and so also the

Appellate Court has rightly observed that pending dispute has become infructuous. The petitioner being aggrieved by the order passed in the revision pertaining to the recovery certificate preferred the Writ Petition before this Court and the said Writ Petition is also pending. The petitioner is thus at liberty to raise all the grounds available to him. The learned counsel for the petitioner also admits that the petitioner has already raised the similar grounds at the time of the proceedings initiated for obtaining the recovery certificate under Section 101 of the Act of 1960 so also in the revision and also in the pending Writ Petition.

3. In view of this, I do not find any substance in this Writ Petition. Hence, I pass the following order :

ORDER

The Writ Petition is hereby dismissed.

(V. K. JADHAV, J.)

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vmk/-