

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

WRIT PETITION NO.2947 OF 2019

Siddheshwar Sahakari Dudh
Vyavsayik Sanstha Ltd.,
Deulgaon Siddhi,
Taluka and Dist.Ahmednagar,
through its Chairman and ors.

.. Petitioners

Versus

The State of Maharashtra and ors.

.. Respondents

Mr A.D. Shinde, Advocate for petitioners
Mr S.Y. Mahajan, Addl.G.P. for respondents no. 1 to 3
Mr G.K. (Naik) Thigale, Advocate for respondent no.4

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 3.2.2020

ORAL ORDER :

1. Heard Mr Shinde, learned Advocate for petitioners and Mr Thigale, learned Advocate for respondent no.4, so also the learned A.G.P.
2. The petitioners claim directions against the respondents to refund the amount of fixed deposit along with the accrued interest as well as the share amount.
3. Mr Shinde, learned Advocate for petitioners submits that petitioners had made F.D. with respondent no.3 - Zilla Sahakari Duddh Vyavasahyik Sangh. Respondent no.3 went in liquidation and the assets of respondent no.3 were transferred to respondent no.4 and other seven Taluka Dudh Vyavasyik Sanghs. The petitioners are within the area of operation of respondent no.4. The learned Advocate submits that in 2005 also, the order was passed saying that

all the assets should be transferred to respondent no.4 and 7 – Taluka Dudh Vyavasaik Sangh. The learned Advocate submits that till now, the respondent no.4 was taking a plea that funds are not available, funds are available with respondent no.4. Auction of the assets has taken place. Now, the respondent no.4 can refund the amount along with accrued interest.

4. Mr Thigale, learned Advocate submits that the petitioner is approaching this Court for the first time after 2005 in the year 2019. No explanation is given of keeping silence for fourteen years. The learned Advocate submits that respondent no.4 does not have the record in order to verify the genuineness of the claim made by the petitioner. According to learned Advocate, no explanation is given for the delay and laches. It is with great difficulty, respondent no.4 has come out of financial problems and trying to revive and has revived. Mr Thigale submits that after 2006, petitioner has not approached respondent no.3 or respondent no.4.

5. It appears that there are some disputed questions of facts with regard to claim of petitioner vis-a-vis with respondent no.4.

6. In such a scenario, it would not be possible for this Court to arrive at a definite conclusion about the amount due and payable. In the result, petitioner is at liberty to approach the Commissioner of Co-operation and put forth its stand and claim. The Commissioner of Co-operation shall after considering the case of the petitioner and respondent no.4 and upon an enquiry consider the claim of the petitioner. The petitioner and respondent no.4 are at liberty to place their stand before the Commissioner of Co-

operation. The Commissioner of Co-operation shall take decision expeditiously and preferably within four months from the date, the petitioner approaches the Commissioner. The Commissioner shall also afford proper opportunity to respondent no.4 herein before taking decision. In that event, all contentions are kept open.

7. Writ Petition accordingly disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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