

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 7211 OF 2016

M/s. Wasudeo Narayan Thosar

Vs.

**The State of Maharashtra, through its Secretary for the Ministry of
Cooperation, Marketing and Textile, Mantralaya, Mumbai and others**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. G.R. Sadar, Advocate for the petitioner
Mrs. H.N. Prabhu, A.G.P. for the respondent nos. 1 to 4.

CORAM : MANISH PITALE, J.

DATED : JANUARY 24, 2020

In this writ petition the petitioner has challenged order dated 09.11.2016 passed by the Deputy Registrar, Cooperative Societies, Amravati, whereby preliminary objection raised by the petitioner in response to an application filed by the respondent no.5 under provisions of the Maharashtra Money-Lending (Regulation) Act, 2014 (hereinafter referred as "the said Act"), has been rejected and he has been directed to file written statement.

2. The main contention raised on behalf of the petitioner is that despite the detailed preliminary objection raised on behalf of the petitioner questioning the very maintainability of the proceeding initiated by respondent no.5 under the provisions of the said Act,

the Deputy Registrar rejected the same by a cryptic order and directed the petitioner to file written statement.

3. Notice was issued in this writ petition and stay to the proceeding was granted on 27.07.2016. All the respondents including the respondent no.5 (original applicant before the Deputy Registrar) have been served. While learned Additional Government Pleader has appeared on behalf of respondent nos.1 to 4, none has appeared today for respondent no.5 when the writ petition is called out for hearing.

4. In this backdrop the learned counsel for the petitioner was heard. He submitted that in the said proceedings initiated by respondent no.5 under the provisions of the said Act, the petitioner had filed the specific application raising preliminary objection to the very maintainability of the proceedings. It was pointed out before the Deputy Registrar that initially grievance was raised by respondent no.5 against the father of the petitioner and this was evident from the notices earlier received in the name of the father of the petitioner from the concerned authority. It was pointed out that the father of the petitioner had already expired in the year 2013. If this was the admitted position, one of the preliminary objections was, as to how proceeding under the provisions of the said Act could be initiated against the petitioner when the grievance of

respondent no.5 pertained to alleged money lending transaction by deceased father of the petitioner. The other preliminary objection pertained to Section 18 of the said Act. It was submitted that specific period of limitation of 15 years was prescribed under the said provision but it pertained to immovable property that was mortgaged. In the present case, a perusal of the application filed by respondent no.5 under the provisions of the said Act before Deputy Registrar shows that movable property in the form of gold was said to have been mortgaged in the year 2008 by respondent no.5. It was submitted that this was the preliminary nature of objections raised by petitioner to demonstrate that the proceedings initiated under the said Act were not maintainable.

5. Despite such detailed preliminary objection being raised, a perusal of the impugned order dated 09.11.2016 shows that the Deputy Registrar has not adverted to or discussed any of the contentions raised on behalf of the petitioner and the preliminary objections have been rejected by a cryptic order. There is no discussion and no reasoning discernible from the impugned order. Therefore, it is evident that the Deputy Registrar committed an error in passing the impugned order and rejecting the preliminary objections raised on behalf of the petitioner because they go to the very root of matter raising serious doubt about maintainability of the proceedings initiated by

respondent no.5 against the petitioner, under the provisions of the said Act.

6. In view of the above, the writ petition is allowed. The impugned order is quashed and set aside. The Deputy Registrar is directed to consider afresh application raising preliminary objections filed on behalf of the petitioner and to pass reasoned order on the said application within a period of six weeks from today.

7. The writ petition is disposed of in above terms.

JUDGE