

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

918 WRIT PETITION NO.733 OF 2021

Raosaheb s/o Kundlik Bhavar,
Age : 50 years, Occu.: Agriculturist,
R/o.: Asarkheda, Tq. Badnapur,
District : Jalna ... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Co-operative Societies,
Mantralaya, Mumbai
2. The District Deputy Registrar,
Money Lenders and Co-Operative
Societies, Jalna.
3. The Sub-Registrar,
Registry Office, Jafrabad,
District : Jalna.
4. Dnyaneshwar s/o Vitthal Khandebarad,
Age : Major, Occu.: Agriculturist,
R/o.: Nivdunga, Tq. Jafrabad,
District : Jalna. ... RESPONDENTS

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**AND
WRIT PETITION NO. 735 OF 2021**

1. Raosaheb s/o Kundlik Bhavar,
Both R/o.: Asarkheda, Tq. Badnapur,
District : Jalna
2. Sangita w/o Raosaheb Bhavar,
Age ; 43 years, Occ.: Household,

Both R/o.: Asarkheda, Tq. Badnapur,
District : Jalna ... PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Co-operative Societies,
Mantralaya, Mumbai
2. The District Deputy Registrar,
Money Lenders and Co-Operative
Societies, Jalna.
3. The Sub-Registrar,
Registry Office, Jafrabad,
District : Jalna.
4. Vitthal s/o Namdeo Khandebarad,
Age : Major, Occu.: Agriculturist,
R/o.: Nivdunga, Tq. Jafrabad,
District : Jalna.

... RESPONDENTS

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AND**WRIT PETITION NO.737 OF 2021**

Raosaheb s/o Kundlik Bhavar,
Age : 50 years, Occu.: Agriculturist,
R/o.: Asarkheda, Tq. Badnapur,
District : Jalna

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Co-operative Societies,
Mantralaya, Mumbai
2. The District Deputy Registrar,
Money Lenders and Co-Operative
Societies, Jalna.
3. The Sub-Registrar,
Registry Office, Jafrabad,
District : Jalna.

4. Kaduba s/o Panditrao Jagtap,
Age : Major, Occu.: Agriculturist,
R/o.: Nivdunga, Tq. Jafrabad,
District : Jalna. ... RESPONDENTS

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**AND
WRIT PETITION NO.738 OF 2021**

Raosaheb s/o Kundlik Bhavar,
Age : 50 years, Occu.: Agriculturist,
R/o.: Asarkheda, Tq. Badnapur,
District : Jalna ... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Co-operative Societies,
Mantralaya, Mumbai
2. The District Deputy Registrar,
Money Lenders and Co-Operative
Societies, Jalna.
3. The Sub-Registrar,
Registry Office, Jafrabad,
District : Jalna.
4. Ranjana w/o Rajendra Jagtap,
Age : Major, Occu.: Agriculturist,
R/o.: Nivdunga, Tq. Jafrabad,
District : Jalna. ... RESPONDENTS

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**AND
WRIT PETITION NO.740 OF 2021**

1. Raosaheb s/o Kundlik Bhavar,
Age : 50 years, Occu.: Agriculturist,
2. Akash s/o Raosaheb Bhavar,
Age : 20 years, Occu.: Education,

Both R/o.: Asarkheda, Tq. Badnapur,
District : Jalna

... PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Co-operative Societies,
Mantralaya, Mumbai
2. The District Deputy Registrar,
Money Lenders and Co-Operative
Societies, Jalna.
3. The Sub-Registrar,
Registry Office, Jafrabad,
District : Jalna.
4. Krushna s/o Vitthal Khandebarad,
Age : Major, Occu.: Agriculturist,
R/o.: Nivdunga, Tq. Jafrabad,
District : Jalna.

... RESPONDENTS

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AND

WRIT PETITION NO.744 OF 2021

Raosaheb s/o Kundlik Bhavar,
Age : 50 years, Occu.: Agriculturist,
R/o.: Asarkheda, Tq. Badnapur,
District : Jalna

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Co-operative Societies,
Mantralaya, Mumbai
2. The District Deputy Registrar,
Money Lenders and Co-Operative
Societies, Jalna.

3. The Sub-Registrar,
Registry Office, Jafrabad,
District : Jalna.

4. Jijabai Ramchandra Khalekar,
Age : Major, Occu.: Agriculturist,
R/o.: Nivdunga, Tq. Jafrabad,
District : Jalna.

... RESPONDENTS

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Advocate for the Petitioners : Mr. Swapnil Joshi h/f
Mr. S. B. Deshpande
AGP for Respondent Nos.1 to 3 : Mr. Kiran B. Jadhavar
Advocate for Respondent No.4 : Miss Maya Jamdhade

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CORAM : AVINASH G. GHAROTE, J.

DATED : 9th JULY, 2021.

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ORAL JUDGMENT :-

1. **Rule.** Rule made returnable forthwith. Heard finally with consent of the parties.

2. Heard Advocate Mr. Swapnil Joshi, holding for Mr. S. B. Deshpande, learned counsel for the petitioners. Learned AGP Mr. Kiran B. Jadhavar, Ms. Maya Jamdhade appears for respondents in all the petitions.

3. The issue involved in the present petition, has been succinctly stated in the order dated 18/01/2021 as to whether under Section 18 of the Maharashtra Money Lending

(Regulation) Act, 2014, the District Registrar, has the power to pass an interim order in the nature of restraining the person in whose name the property stands under the document of title, from creating any third party interest during the pendency of the proceedings.

4. Inviting my attention to the language of Section 18 of the Act of 2014, Mr. Joshi, learned counsel for the petitioners submits, that there is no such power vested in the District Registrar to pass an interim order of any nature whatsoever. He submits, that the power conferred only empowers the District Registrar to conduct an inquiry and pass an order on the merits of the matter. He therefore submits, that the impugned order by the respondent no.2, is clearly unsustainable in law, as the same is without jurisdiction.

5. Mr. Kiran B. Jadhavar, learned AGP for respondent nos. 1 to 3 submits, that such a power to pass an interim order, by respondent no.3, can be traced to Sections 16 and 17 of the Act of 2014.

6. Ms. Maya Jamdhade, learned counsel for respondent no.4 supports the contention of learned AGP. She submits, that

though respondent no.2, may not have been authorized by the Act of 2014 to pass any interim orders, however, considering the nature of the inquiry, such a power has to be read into the provisions of Section 18(1) of the Act of 2014.

7. In the instant case, there is no issue about any license for the reason, that it is an admitted position, that the petitioner does not have any money lending license. The contention is that the petitioner has obtained sale deeds of immovable properties from the respondent no.4 in his favour, which transaction has been challenged on the ground that it is a money lending transaction without valid license. There is no dispute, therefore, that Sections 16, 17 and 18 of the Act of 2014 and Rule 17 of the Maharashtra Money Lending (Regulation) Rules, 2014 are the provisions, which are attracted.

8. The basic provision is, Section 18 of the Act of 2014, which mandates that either during verification under Section 16 or an inspection under Section 17 or by an application from a debtor or otherwise, the District Registrar, has reason to believe that any immovable property, which has come in possession of the money lender by way of sale, mortgage, lease, exchange or otherwise, within a period of 15 years from the date of such

knowledge in the manner indicated above, may himself or through an inquiry officer, appointed in the prescribed manner, hold further inquiry into the nature of the transaction. Sub-Section 2 of Section 18, mandates, that if upon holding the inquiry as contemplated by sub-Section 1 the District Registrar is satisfied that the immovable property came in possession of the money lender as a security for loan advance by the money lender, during the course of money lending he may after recording reasons, declare the instrument or conveyance as invalid and may order restoration of possession of the property to the persons enumerated therein, all of which has to be done by giving an opportunity to the person concerned for filing his objections, and also of a personal hearing, if so desired by such person. The procedure of such inquiry, is enumerated in Rule 17 of the Rules of 2014.

9. Section 16 of the Act, 2014, which empowers the authorized officer, which includes the District Registrar, to require production of records and documents and Section 17 of the Act, 2014, which prescribes the manner of the disposal of the property pledged with the money lender, are therefore, ancillary to the provisions of Section 18 (1) & (2) which require

the District Registrar to record his satisfaction that the transaction is a money lending transaction after following the procedure as laid down in rule 17 of the Rules of 2014. It is thus, apparent that the provisions of Section 18 (1) and (2) of the Act of 2014, do not empower the District Registrar, to pass any interim orders, of any nature whatsoever, viz., the immovable property, in respect of which inquiry under Section 18 of the Act, 2014, is being held. Rule 17 of the rules of 2014 which prescribes the procedure of conducting the inquiry under Section 18 of the Act of 2014, also does not provide for entertaining any application for interim reliefs. In fact, Rule 17(12), which empowers the District Registrar or the inquiry officer appointed by him, at any stage of the proceedings, to add name of any person to whom the possession or enjoyment of property or use claim, may have been transferred, so as to enable him to effectually and completely decide the issue involved in Section 18, indicates, that the legislature has intentionally refrained from conferring any powers upon the District Registrar, to pass an interim order in respect of the property which is under inquiry.

10. No other provision of the Act of 2014 or for that matter of

the rules 2014, has been brought to my notice, whereby the District Registrar, is empowered to pass interim orders of protection in respect of the property which is under inquiry in proceedings under Section 18 of the act of 2014. This clearly indicates, the absence of power to pass an interim order of the nature as indicated above.

11. The reliance by Ms. Maya Jamdhade, learned counsel for respondent no.4, on Section 15, of the Act of 2014, which confers, for the purpose of Section 18 upon the Assistant Registrar, the powers of the civil court under CPC, of the nature enumerated therein namely of enforcing the attendance of any person and examining him on oath, compelling the production of documents and material objects, issuing commissions for the examination of witnesses, and proof of facts by affidavits, would not amount to confer any power upon the District Registrar to grant interim protection / relief as the powers contemplated under Section 15 (A to D) are limited powers for the purposes of conducting the inquiry under Section 18 of the Act of 2014, in the manner as provided under Rule 17 of the Rules of 2014.

12. It is thus apparent that the District Registrar, while conducting an inquiry under Section 18 of the Act of 2014, has

no power to pass any interim orders. The impugned order, therefore, in my considered opinion, is without any jurisdiction and therefore, cannot be sustained in law. The same is therefore quashed and set aside.

13. Rule is made absolute in the above terms. Needless to say, that in case, the petitioner transfers the property to a third party, the respondent no.4 would be entitled to implead such third party in the proceedings pending under Section 18 of the Act of 2014 in tune with the mandate of Rule 17(12) of the Rules of 2014. No costs.

(AVINASH G. GHAROTE, J.)

vsm/-