

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

WRIT PETITION NO.12582 OF 2018

Gangadhar Shripatrao Somwanshi
and ors.

..Petitioners

Vs.

Yashwant Vidyalaya Sevkanchi
Sahakari Patsanstha Maryadit, Latur

..Respondent

Mr.V.B.Jadhav, Advocate for petitioners
Mr.S.G.Joshi, Advocate for respondent

**CORAM : R.G. AVACHAT, J.
DATE : FEBRUARY 26, 2021**

PER COURT :-

Heard.

2. Petitioner no.1 had borrowed a sum of Rs. One Lakh from the respondent/Society. Petitioner nos.2 and 3 have been guarantors for said loan. As petitioner no.1 defaulted in repayment, the respondent/Society filed a dispute before the Co-operative Court. It was allowed in July, 2015. From Perusal of the judgment passed by the Co-operative Court, it appears that the petitioners had not filed written statement therein. The

petitioners, thereafter, preferred appeal against the decree passed by the Co-operative Court. The petitioners have been unsuccessful in appeal as well. They are, therefore, before this Court.

3. Learned counsel for the respondent tenders copies of two applications dated 01.11.2013 and 09.11.2013, preferred by petitioner no.1, wherein, he has admitted his liability.

4. A copy of the resolution dated 30.10.2004 passed in annual general meeting of the respondent/Society has been produced on record. Perusal thereof indicates that petitioner no.1 had been granted waiver of interest on the loan amount. Before the Co-operative Court and even before the appellate Court, the respondent/Society appears to have not produced said resolution. Learned counsel for the respondent, however, admits before this Court that said resolution was passed. According to him, it was in the nature of one-time settlement. From reading of the resolution, it, however, does not appear so.

5. With a view to give the petitioner an opportunity of hearing and to give effect to the resolution dated 30.10.2004, the orders impugned herein are set aside. The matter is remanded back to the Co-operative Court. The petitioners shall file written statement within a period of thirty days. The co-operative Court shall decide the dispute on its own merit. The amount deposited herein be paid to the respondent/Society towards arrears of loan amount.

6. The Writ Petition stands disposed of accordingly.

[R.G. AVACHAT, J.]

KBP