

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

932 WRIT PETITION NO.9017 OF 2017

HINA SHAHIN CO-OPERATIVE URBAN BANK LTD
THROUGH ITS CHIEF LIQUIDATOR
VERSUS
SAYYAD PARVEZ SAYYAD KHAYYUM

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Advocate for Petitioner : Mr. Madhav P. Gune
Advocate for Respondents : Mr. Hrishikesh Tungar

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CORAM : V.K. JADHAV, J.

Date of Reserving
the Order : March 16, 2021

Date of Pronouncing
the Order : March 18, 2021

PER COURT:-

1. Heard finally with consent at admission stage.
2. The respondent/disputant has filed a dispute bearing No.319 of 2014 under section 91 of the Maharashtra Co-operative Societies Act, 1960 (for short referred to as "the Societies Act") challenging the notice issued under section 105 of the Societies Act by the liquidator of the society. By judgment and order dated 9.6.2015, the Judge, Co-operative court, Latur, has

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partly allowed the dispute and thereby declared that the notice dated 21.11.2012 issued u/s 105 of the Societies Act by the Liquidator of the society-petitioner herein, is illegal.

3. Being aggrieved by the same, the petitioner has filed an appeal No.81 of 2015 before the Maharashtra State Cooperative Appellate Court, Mumbai, Bench at Aurangabad. By judgment and order dated 5.2.2016 the appellate court has dismissed the appeal. Hence, this writ petition.

4. Learned counsel for the petitioner submits that the liquidator of the society has issued notice under Section 105 of the Societies Act and the same has been issued by verifying the account. The Liquidator is empowered to hear and determine the same and there was no reason for the Co-operative Court to verify the genuineness about the contents of the said notice.

5. Learned counsel for the respondent/disputant submits that payment made by the respondent/

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disputant was not shown in the loan accounts. The respondent/disputant has placed on record the original receipts. The learned Judge of the Co-operative court after verifying the same and considering the evidence of the Chief Executive Officer of the Society, has rightly passed the order.

6. The respondent/disputant has taken permission from the Registrar, Co-operative Societies for filing dispute. Thus, there was no impediment for the Co-operative court to entertain the said dispute. It further appears that the petitioner liquidator has simply issued notice under section 105 of the Societies Act.

7. It appears from the observations made by the learned Judge of the Co-operative court that the respondent/disputant has deposited an amount of Rs.51,900/- under receipts Exh.19 to 25. It is also observed by the learned Judge of the Co-operative court that the petitioner herein has not taken into consideration the amount deposited by the respondent/disputant before issuing the notice. It thus appears
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that the liquidator has not adjudicated the claim and he has only issued the notice to the respondent/disputant calling upon him to pay the amount.

8. In view of the above, I do not find any substance in this writ petition. However, it is necessary to clarify that the liquidator shall consider the documents, that would be produced by the respondent/disputant before him and shall consider the said documents and thereafter re-construct the loan account. The liquidator, still then if finds that there is some amount due and payable by the respondent/disputant, then, the liquidator may proceed against the respondent/disputant in accordance with law.

9. With the above clarification, writ petition is disposed off. No costs.

(V.K. JADHAV, J.)

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