

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5295 OF 2021

Shri.Abhijit Mohanrao Shingare & Anr.

...Petitioners

V/s.

The State of Maharashtra & Ors.

...Respondents

Mr.Vaibhav Ugle for the Petitioners.

Mr.C.D. Mali, AGP for the State.

CORAM : G. S. KULKARNI, J.

DATE : SEPTEMBER 08, 2021

PC :

1. Heard learned counsel for the petitioners and learned AGP for the State. Respondent nos.2 and 3 are the contesting respondents, however, they are not appearing as notice of this petition was not served on them. Be that as it may, in my opinion, no prejudice would be caused to these respondents considering the order I propose to pass.

2. The challenge in this writ petition is to an order dated 15 April, 2021 passed by the learned Divisional Joint Registrar Co-operative Society, Pune Division, Pune, whereby the revision application, as filed by the petitioners against the recovery certificate dated 10 March, 2017 granted by the recovery officer/respondent no.3, has been rejected on the ground that the petitioners

did not comply with the requirement of the pre-deposit as mandated by the provisions of Section 154(2A) of the Maharashtra Co-operative Societies Act, 1960(for short 'The Act').

3. The principal contention as urged by the learned counsel for the petitioners is that after the issuance of the recovery certificate and before the revision application was taken up for hearing before the Divisional Joint Registrar Co-operative Society, Pune Division, Pune, who passed the impugned order, there were certain recoveries which were made by respondent no.1 which ought to have been taken into account. IT is contended that if such recovered amounts were to be adjusted for the purposes of the pre-deposit which would be required to be made under Section 154(2A) of the Act, then certainly the revision application as filed by the petitioners could have been entertained subject to the condition of pre-deposit of a lesser amount under the provisions of Section 154(2A) of the Act.

4. In my opinion, such contention as urged by the petitioners in fact, would be required to be urged by the petitioner before the Divisional Joint Registrar, it cannot be a contention at the first instance before this Court. If such contention is urged before such authority, certainly the contesting respondents namely respondent no.2-Pune Urban Co-operative Bank Ltd. would have an opportunity to deal with such contentions.

5. The petition is accordingly disposed of with liberty to the petitioners to urge all permissible contentions before the Divisional Joint Registrar.
6. Needless to observe that all contentions of the parties are expressly kept open in such regard.
7. The petition stands disposed of in the above terms. No costs.

(G. S. KULKARNI, J.)