

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

WRIT PETITION (WP) NO.2500 OF 2021

Sunilkumar Wamanrao Wadal and Ors.

..Versus..

Divisional Joint Registrar, Cooperative Societies, Amravati and Ors.

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

Court's or Judge's

Shri. R. D. Karode, Advocate for the Petitioners
Ms. T. H. Khan, Asst. G. P. for the Respondent Nos.1 to 3.

CORAM : **N. B. SURYAWANSHI, J.**
DATE : **17th JULY, 2021.**

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. By this petition, the Petitioners challenge the order dated 18.02.2020 passed by the Respondent No.1 – Divisional Joint Registrar Cooperative Societies (Money Lending), Amravati Division, Amravati in Appeal No.3 of 2019, thereby remanding the matter back to the Respondent No.2 for fresh consideration.

3. The Respondent Nos.4 and 5 filed a complaint under Section 18 of the Maharashtra Money Lending (Regulation) Act, 2014 (for short, “the Act of 2014”), contending that they owned Gat No.260 admeasuring

1 H 42 R of village Dhamna (Bk), Tah. Akot, District Akola. Their father was in need of money. The Petitioner No.1 Sunilkumar Wamanrao Wadal was doing money lending business in their area. He gave hand loan of Rs.1,25,000/- to their father and obtained a sale deed dated 31.05.2010 of their land. They therefore claimed that the said sale deed be declared illegal and criminal action be initiated against the Petitioners. The Respondent No.2 - District Deputy Registrar, Cooperative Societies, Akola rejected the complaint observing that the inquiry report submitted by the Respondent No.3 - Assistant Registrar, Cooperative Societies, Akot, District Akola, was wrong and illegal.

4. The Respondent Nos.4 and 5 thereafter approached the Respondent No.1 - Divisional Joint Registrar, Cooperative Societies (Money Lending), Amravati, by filing Appeal No.3 of 2019. After hearing the concerned parties, the said appeal was partly allowed by the Respondent No.1. The order passed by the Respondent No.2 was set aside and the matter was remanded back to the Respondent No.2 with a direction to give opportunity to the parties to lead

evidence and to decide the matter on merits. This order is impugned by the Petitioners.

5. Heard the learned Advocate for the Petitioners and the learned Assistant Government Pleader for the Respondent Nos.1 to 3.

6. The learned Advocate for the Petitioners submitted that after hearing the matter, the Respondent No.1 closed it for order on 23.04.2019 and the impugned order is passed on 18.02.2020. Since after closing the matter, the order is not passed within reasonable time, therefore the impugned order is unsustainable. In support of his argument, he relied on the following decisions :

- i) Anil Rai ..Vrs.. State of Bihar, 2001 (7) SCC 518
- ii) Chaya Jagan Kale ..Vrs.. State of Maharashtra, 2011(4) Bom. C.R. 423
- iii) Decision of Nagpur Bench in Writ Petition No.3930 of 2016 (Prashant s/o Gajanan Kharche and Ors. ..Vrs.. Divisional Joint Registrar and Ors.

7. The Petitioners do not dispute that they were heard by the Respondent No.1 and at the time of hearing, they have submitted the written notes of arguments (Annexure-H). The Respondent No.1 has remanded the matter back to the Respondent No.2, by taking into consideration the fact that in-spite of direction in Writ Petition No.3612 of 2017 (Shrikumar Bhujangrao Ware and Another ..Vrs.. Sunilkumar Wamanrao Wadal and Others) to conduct cross-examination of the witnesses, the Respondent No.2 failed to give opportunity to the Respondent Nos.4 and 5 to cross-examine some of the witnesses of the Petitioners. It is also observed that the Respondent No.2 has misinterpreted the decision rendered in civil dispute, the inquiry report submitted by the Respondent No.3 - Assistant Registrar though stated that the Petitioners indulged in illegal money lending business, this report was not considered by the Respondent No.2 while dismissing the complaint and exonerating the Petitioners. The Respondent No.1 therefore was justified in partly allowing the appeal and remanding the matter back for fresh consideration on merits, after giving an opportunity to

the parties to lead evidence. The Respondent No.1 neither adjudicated the rights of the parties nor decided the matter on merits, no fault can be found with the order passed by the Respondent No.1.

8. The Hon'ble Apex Court was deciding the criminal appeal filed by Anil Rai (supra), wherein after taking note of the facts that in some High Courts, inordinate, unexplained and negligent delay is being caused in pronouncing the judgments in criminal appeals, which according to the Hon'ble Apex Court negated the right of appeal conferred on the convicts. Hence, the Hon'ble Apex Court laid down the guidelines, thereby setting an outer limit of six months in deciding the matters.

This Court, in the case of Prashant Gajanan Kharche (supra) set aside the decision as the same was passed after two years, after the matter was closed for orders. In Chaya Jagan Kale (Supra) the guidelines are laid down to decide the matter within stipulated time.

9. Taking into consideration the facts of the present case, since the Respondent No.1 has remanded the matter back for fresh consideration on merits on the ground of violation of principle of natural justice, the order of remand is not liable to be set aside on the sole ground that the order is not passed within stipulated time. The remand order has not caused any prejudice to the Petitioners. The decisions of the Authorities relied upon by the Petitioners would not help the Petitioners, in view of the peculiar facts of the present case. Thus, the Petitioners have failed to make out a case for exercising extra ordinary writ jurisdiction. Writ Petition No.2500 of 2021, is therefore, **dismissed**.

(N. B. SURYAWANSHI, J.)