

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

WRIT PETITION NO.8509/2018

Manoj Budhaji Tayade
...Versus...
Dr. Ajit Vinod Barai and another

with
WRIT PETITION NO.8512/2018

Manoj Budhaji Tayade
...Versus...
Shri Arifshah Haidarshah and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri O.A. Ghare, Advocate for petitioner
Shri T.R. Kankale, Advocate for respondent no.1
Shri A.H. Patil, Advocate for respondent no.2

CORAM : AVINASH G. GHAROTE, J.

DATE : 07/09/2021

1. Shri Ghare, learned Counsel for the petitioner takes exception to the order passed by the Consumer Forum, whereby the complaint, as filed by the respondent no.1, has been allowed against the petitioner, who was the President and Secretary of the Society. He submits that based upon the admitted position on record, as emanating from the complaint itself, it is apparent that the deposit was received

by the Society and it was the responsibility of the Society to refund it, and therefore, no liability could have been fastened upon the President or Secretary. He invites my attention to para 3 of the complaint before the Consumer Forum. Merely on the use of an incorrect nomenclature in the cause-title of the complaint, the learned Consumer Forum, while passing the impugned order, has held that the President and Secretary is liable to repay the deposit with interest thereupon. According to him, it is a settled position of law that the Society has a separate and distinct entity and by no such stretch of imagination, can the President and Secretary of the Society be made personally liable for any debts of the Society. He submits that even otherwise the petitioner herein was not even the President of the Society at the relevant time, as he was the President only till 2013 and the deposit was given by the respondent no.1 to the Society on 09/02/2015.

2. Shri T.R. Kankale, learned Counsel for the respondent no.1 makes a statement that the claim of the respondent no.1, was only against the Society, i.e. Rajarshri Shahu Maharaj Magasvargiya Nagari Sahakari Pat Sanstha, Shegaon and not against its office bearers in person, as the deposit was made by the respondent no.1 with the Society and not with the President or Secretary in person.

3. On instructions, Shri Kankale, learned Counsel for the respondent no.1, makes a statement that the order of the Consumer Forum shall be executed only against the Society and not against the President or Secretary of the said Society in person.

4. The statement is accepted, in view of which, the grievance raised in the petition does not survive.

5. It is made clear that any proceedings initiated against the President or Secretary of the said Society in person, before any Court or authority shall not survive, in view of the above statement.

6. The writ petition is disposed of accordingly. There shall be no order as to costs.

(AVINASH G. GHAROTE, J.)