

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2281 OF 2019

Chikhali Urban Co-operative Bank Ltd. & Anr. ..Petitioners

Versus

Divisional Joint Registrar Co-operative
Societies & Ors. ..Respondents

Mr. K.J. Suryawanshi, Advocate for the petitioners.
Mr. Y.G. Gujarathi, AGP for State.
Mr. B.G. Sagade, Advocate for Respondent No. 4.
Mr. Omprakash Totawad h/f. Mr. C.R. Thorat, Advocate for
Respondents No. 5 and 6.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th SEPTEMBER, 2022

ORDER :

1. By this petition filed under Article 226 and 227 of the Constitution of India, the petitioners/banks challenge the order passed by respondent no. 1 in Revision Application No. 23 of 2014, filed under section 154 of the Maharashtra Co-operative Societies Act, 1960 (for short 'said Act').

2. Having heard the learned advocate for the petitioners and learned advocate for the respondents as well as the learned Assistant Government Pleader and on perusal of the impugned

order it appears that, the petitioners have not filed relevant documents before respondent no. 1 at the time of hearing of said revision. Due to failure on the part of petitioners to file relevant documents, respondent no. 1 has allowed the revision and set aside the attachment order passed by the Recovery Officer under Rule 107 (10) of the Maharashtra Co-operative Societies Rules, 1961 (for short 'said Rules')

3. The learned advocate for the petitioners has pointed out that the notices issued to the borrower and guarantors under Rule 107 (3), 103(11) and 98 of the said Rules from time to time. He further points out the statement made in the revision filed before respondent no. 1 that respondents no. 5 and 6 have signed loan application as a security. He further submits that it is not clear as to whether respondents have deposited 50% amount of the recoverable amount at the time of filing the revision.

4. Taking into consideration the aforesaid facts the impugned order deserves to be quashed and set aside and the matter is required to be remanded back to respondent no. 1 for consideration afresh. In the result, following order:

ORDER

- i) The writ petition is allowed.
- ii) The impugned order dated 31.08.2017 passed by respondent no. 1 in Revision Application No. 23 of 2014, is hereby quashed and set aside.
- iii) The revision is remanded back to respondent no. 1 for consideration afresh on merit in accordance with law.
- iv) The parties shall appear before respondent No. 1 on 28.09.2022. Notice in that behalf is dispensed with.
- v) Respondent No. 1 shall decide the matter after giving opportunity of hearing to the parties within a period of three months from the date of receipt of writ of this order.

[NITIN B. SURYAWANSHI, J.]