

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

**WRIT PETITION NO.142 OF 2019**

Digambar s/o Karbhari Bodkhe

... Petitioner

Versus

The State of Maharashtra and Ors.

... Respondents

...

Mr. B. N. Patil, Advocate for the Petitioner

Mr. S. W. Munde, AGP for Respondent Nos.1 to 4

Mr. C. K. Shinde, Advocate for Respondent No.5

...

**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 10<sup>th</sup> August, 2022**

**PER COURT :-**

1. This petition filed under Articles 226 & 227 of the Constitution of India takes exception to the order dated 31-05-2018, passed by the Divisional Joint Registrar, Co-operative Societies, Aurangabad/respondent no.2, thereby allowing the appeal filed by respondent no.5 and setting aside the order dated 10-07-2015, passed by the District Deputy Registrar, Co-operative Societies, Aurangabad/respondent no.3.

2. Anil Digamber Bodhke (son of the petitioner), on Loakshahi Din i.e. 03-03-2014 complained to the District Collector, Aurangabad that the transaction of Gat No.362 admeasuring 40 R. situated at Village Debhegaon was a money lending transaction. On receipt of the said complaint, the Collector directed the Assistant

Registrar Co-operative Societies, Kannad to conduct enquiry. Accordingly, a report dated 27-05-2014, adverse to the interest of respondent no.5, was submitted by the Assistant Registrar. The respondent no.5 challenged the said report by filing Writ Petition No.10514/2014. This Court asked respondent no.5 to approach appropriate forum by filing delay condonation application. Thereafter, respondent no.5 challenged the said report by filing Appeal No.3/2015 along with delay condonation application. The said application was pending before respondent no.2.

3. The respondent no.3, thereafter, heard the parties and passed an order against respondent no.5 holding that the sale deed of disputed land executed by the petitioner in favour of respondent no.5 is illegal and it is a money lending transaction.

4. Thereafter, respondent no.5 filed appeal no.3/2015 challenging the said decision and respondent no.2 has allowed the appeal. Hence, the present petition.

5. Heard the learned Advocate for the petitioner, the learned Assistant Government Pleader for respondent nos.1 to 4 and the learned Advocate for respondent no.5.

6. The appeal filed by respondent no.5 is allowed by respondent no.2 on the ground that the proceeding filed by the petitioner was

beyond limitation. Under Section 18 (1) as is stood before amendment of 2014, the transaction of preceding five years from the date of inspection/verification etc. could be gone into. In the present case, admittedly, the sale transaction questioned by the petitioner is dated 28-05-2001. The same was questioned by the petitioner by filing proceeding on 03-03-2014. Pursuant to the complaint of the petitioner, inspection was carried out on 02-04-2014. During the course of inspection, six sale deeds were found, which were of the years 2000 to 2002. Apparently, the application/complaint filed by the petitioner was beyond the limitation of five years and therefore, should not have been entertained by respondent no.3.

7. Though the learned Advocate for the petitioner has tried to rely upon the amendment of 2014, which prescribes 15 years period of limitation, the amendment would not help the petitioner, as the petitioner's complaint/application is dated 03-03-2014. The amendment cannot be made retrospectively applicable in absence of retrospective effect having been given to it by law.

8. The respondent no.2 has rightly held that since the complaint is hit by limitation, respondent no.3 should not have entertained the same. Admittedly, during the course of inspection, all sale deeds were found of the years 2000, 2001 and 2002. Therefore,

those also could not have been taken into consideration, as they were beyond the period of five years.

9. The respondent no.2 has passed a well reasoned order. No case is made out by the petitioner to warrant interference under Articles 226 and 227 of the Constitution of India. The writ petition, being devoid of merit, is dismissed.

**[NITIN B. SURYAWANSHI, J.]**

*Sameer*