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

WRIT PETITION NO. 1680 OF 2018

Smt. Shailaja Ramchandra Tondale ....Petitioner
V/S
The Kolhapur Zilha Aarogya Karmachari/
Adhikari Dhanvantari Sevak Sahakari Pat
Sanstha Ltd. & Ors. ....Respondents

Mr. Naveen B Khaire For Petitioner

CORAM : NITIN W. SAMBRE, J.

DATED : 3rd AUGUST, 2022

P.C.:

1. The petitioner preferred a dispute being Dispute No. 256 of 2014 under section 91 of the Maharashtra Co-operative Societies Act before the Co-operative Court, Kolhapur alleging that the Respondents herein has processed false and bogus loan case in her name and illegally deducted the installments of loan amount from her salary. As such, it is claimed by the petitioner that she is entitled for refund of an amount of Rs.4,57,019/- with 18% interest, so also Rs.56,445/- which she was permitted to withdraw from her saving account.

2. The aforesaid dispute came to be partly allowed vide order dated 28/07/2016 wherein directions were issued to the

respondents to jointly and severally pay an amount of rupees Rs.56,445/- with prevalent rate of interest on saving account. The petitioner feeling aggrieved preferred an appeal being appeal no. 100 of 2016 which was also dismissed on 03/04/2017. As such this writ petition under Article 227.

3. The contentions of the counsel appearing for the petitioner Mr. Khaire are the alleged loan was never processed by the petitioner as she has not signed the loan documents. According to him, the documents which were demanded by the petitioner so as to substantial the case that fraud being practiced on her in processing the loan papers in her name were never supplied. In addition, his contentions are the loan amount has never gone to her account and that being so she cannot be held responsible.

4. I have appreciated the aforesaid submissions of the counsel for the petitioner in the backdrop of observations made in both the judgments.

5. As regards the processing of the loan application and disbursement of loan amount in the account of the petitioner, was very much established as the petitioner was made available the documents by the respondents, which she has demanded as reflected in paragraph no. 7 of the award delivered by the Co-

operative Court.

6. It appears that the loan amount was sanctioned pursuant to the loan documents processed at the behest of petitioner. Petitioner appears to have withdrawn an amount of Rs.2,88,416/- vide cheque no. 989075. The aforesaid cheque is from the cheque book which was issued in favour to the petitioner as reflected from the cheque register of the respondent-Bank. The copy of the counter slip of the cheque, a slip of cash amount alongwith transfer slip of the amount was also produced on record. As such, it was established that the loan was disbursed in the account of the petitioner.

7. Once the petitioner has come out with the case that the fraud was practiced on her in matter of sanctioned and disbursement of loan, the onus lies on the petitioner to prove the same, which the petitioner has failed to discharge.

8. The Appellate Court has considered the entire pleadings and evidence and has noticed that at times, the petitioner has deposited the installments through cash in the loan account. The conduct of the petitioner of lodging a grievance as regards the disbursement of the loan at belated stage was also one of the reason for dismissal of the appeal.

9. In the aforesaid background, having regard to concurrent findings recorded by both the Courts below and there being absence of any lawful ground, no case for interference in the concurrent findings is made out. The petition fails and same stands dismissed.

(NITIN W. SAMBRE, J.)