

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

WRIT PETITION NO.1260 OF 2022

(Kanchanmala w/o Datratraya Marawar Vs. State of Maharashtra, thr. Assistant Registrar, Co-operative Societies, Yavatmal and others)

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

Court's or Judge's orders.

Mr. R. K. Thakkar, Advocate for Petitioner.

CORAM: ROHIT B. DEO, J.

DATE: 28th MARCH, 2022.

This petition is a classic abuse of the process of law.

2. The petitioner Smt. Kanchanmala Datratraya Marawar is assailing in writ jurisdiction notice issued by the Recovery Officer under Rule 107 (3)(7)(11) and 98 of the Maharashtra Co-operative Societies Rules, 1961 (Rules).

3. Perusal of the notice reveals that in the body of the notice the recital is that Mr. Akash Datratraya Marawar is called upon to pay the society amount of Rs.2,30,47,675/- (Rupees Two Crores Thirty Lakhs Forty Seven Thousand Six Hundred Seventy Five) with a future interest. The claim is presumably on the basis of the certificate issued under Section 101 of the Maharashtra State Co-operative Societies Act, 1960 (Act). Copies of the notice are addressed to the petitioner, Mr. Sagar Datratraya Marawar and Mr. Shrikant

Ramshankar Bajpayee. While Mr. Sagar Marawar and Shrikant Bajpayee are described as guarantors, the petitioner Mr. Kanchanmala Datratraya Marawar is described as co-borrower.

4. The adjudicatory order on the basis of which the notice is issued is not challenged in the petition. This petition was heard on 14.03.2022 and this Court granted two weeks time to the petitioner to place on record additional documents. This order was passed in the context of the fact that Mr. Akash Datratraya Marawar and Mr. Sagar Dattatraya Marawar are the sons of the petitioner, and assuming that the petitioner was not served copy of the application preferred by the Bank under Section 101 of the Act, she could have easily procured the relevant documents from either of her son.

5. Today, the petitioner has placed on record notice dated 15.09.2021 issued by the Assistant Registrar to substantiate the contention that the notice does not make reference to the petitioner. The petitioner has placed on record the order-sheet dated 15.12.2021 in which the petitioner is shown as non-applicant 4. The order-sheet dated 12.01.2022 and the subsequent order-sheet also shows the name of the petitioner Smt. Kanchanmala Datratraya Marawar and non-applicant 4.

6. Mr. Thakkar, the learned counsel for the petitioner

would like the Court to believe that the discrepancy in the notice issued and the order-sheet is suggestive of manipulation. However, it is noted that the petitioner is persisting in not placing on record the application preferred under Section 101 of the Act, which as noted *supra*, she could have easily obtained from one of her two sons who admittedly are the parties.

7. In the application seeking permission to place the additional documents on record, there is absolutely no explanation why the petitioner could not have placed on record copy of the application preferred by the Bank under Section 101 of the Act. This Court had on the last date of hearing specifically asked the learned counsel Mr. Thakkar to advise the petitioner to obtain copy from either of her two sons and place the same on record. In the entire application, there is not even a single word explaining whether the petitioner did ask her sons for the copy, and if yes, whether her sons refused to make available copy of the application preferred under Section 101 of the Act to their mother.

8. The petitioner has averred in the application seeking permission to place on record additional documents, that further documents shall be filed after the same are supplied by the authority. I more than satisfied that the conduct of the petitioner is not *bona fide*.

9. Even *de hors* the conduct of the petitioner, there is no reason why this Court is required to interfere in writ jurisdiction. The petitioner is at liberty to approach the authority with her perspective or then to avail the statutory remedy which is undoubtedly available.

10. I see no reason to exercise writ jurisdiction.

11. The petition is dismissed.

JUDGE

NSN