

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

11 WRIT PETITION NO.2036 OF 2023

**THE MOTI URBAN CO OPERATIVE BANK LTD.
THROUGH ACCOUNTANT RAMESH BHOJU PATIL
VERSUS
PRAKASH GOVINDA NIKWADE AND OTHERS**

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Advocate for the petitioner : Mr.K.J.Suryawanshi

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CORAM: ARUN R. PEDNEKER, J.

DATE: 20th FEBRUARY, 2023

PER COURT:

1] Heard.

2] The petitioner is challenging the judgment and order dated 05.12.2022 passed by the Member, Maharashtra State Co-operative Appellate Court, Mumbai, Branch at Aurangabad in Appeal No.42/2022 and the judgment and order dated 26.04.2019 passed by the Judge, Co-operative Court at Jalgaon in Dispute No.3/2018 to the extent of dismissing the dispute against the respondent nos.4 and 5.

3] As per the dispute application, the respondent nos.1 to 3 are the members of the petitioner – society. The respondent nos. 4 and 5 are the employer of the other respondents. The respondent no.1 has availed loan of Rs.50,000/- on 22.09.1999 to which the respondent nos. 2 and 3 are Guarantors.

4] The petitioner submits that the respondent no. 4 has undertaken to deduct loan installment from the salary of the respondent no.1. The respondent no. 5 is also employer of the respondent no.1. The respondents have executed loan documents and accepted joint and several liability to repay loan. The agreed rate of interest was 20% p.a. with quarterly rest. The respondents failed to repay loan amount in spite of repeated notices. Therefore, the dispute came to be filed.

5] The learned trial Court held that Exhibit-30, which is an undertaking given under Section 49 of the Maharashtra Co-operative Societies Act, 1960, is not proved. The learned trial Court also held that if the undertaking is not proved, the respondent nos.4 and 5 are not liable for the payment of loan amount taken by the respondent no.1. The same is upheld by the

Member, Maharashtra State Co-operative Appellate Court, Mumbai. The petitioner is not able to establish the said documents before this Court and show how the finding rendered by the Courts below is perverse, therefore, I do not see any reason to interfere in the order passed by the Member, Maharashtra State Co-operative Appellate Court, Mumbai.

6] Accordingly, the present Writ Petition is dismissed.

[ARUN R. PEDNEKER, J.]

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