

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

1017 WRIT PETITION NO.925 OF 2017

ISMAIL JAMIL SHAIKH (DIED)
THROUGH HIS LRs.

1-A) IMRAN ISMAIL SAYYED
1-B) PARVIN ISMAIL SAYYED
1-C) YASMIN ISMAIL SAYYED
1-D) NAZMIN ISMAIL SAYYED
1-E) MAYNA W/O JAMID SAYYED

VERSUS

1. BHAGWAN MARUTI SURYAWANSHI
2. DISTRICT DEPUTY REGISTRAR,
COOPERATIVE SOCIETIES, LATUR &
REGISTRAR OF MONEY LAUNDERS
3. DIVISIONAL JOINT REGISTRAR,
COOPERATIVE SOCIETIES, LATUR

...

Advocate for Petitioner: Mr. V. D. Salunke
Advocate for Respondent No.1: Mr. G. D. Kale
AGP for Respondent/State: Mr. K. N. Lokhande

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 12th SEPTEMBER, 2023

PER COURT:

1. Heard Mr. V. D. Salunke, learned counsel for the petitioner, Mr. G. D. Kale, learned counsel for respondent no.1 and Mr. K. N. Lokhande, learned counsel for the State Authorities.

2. The learned counsel for the petitioners submits that the petitioners are challenging the order passed under section 18(2) and the order passed by the appellate authority under section 18(4) of the Maharashtra Money-Lending (Regulation) Act, 2014.

3. The petitioner is held guilty under the Money Lending Act and the sale deed executed by the respondent in favour of the petitioner is set aside and the land is directed to be reverted to the respondent.

4. In the present writ petition, the petitioner contended that under section 18(3) the requirement of law is that before passing the order or before giving the decision as per sub section 2, the District Deputy Registrar shall give an opportunity to the person concerned to state his objection within 15 days from the date of receipt of notice and may also give personal hearing if he so desires. The learned counsel for the petitioner submits that no notice of hearing

was given. He has taken me through the record as available before the authorities. He submits that the land is situated in Village - Uti, Taluka - Latur. He submits that address of the petitioner is shown as of Latur. He further submits that in a prior suit between the parties the address of the petitioner according to the respondent is of Pune and he was served with summons in Pune. As such, the learned counsel for the petitioner submits that the respondent was fully aware that he was a resident of Pune.

5. The learned counsel for the petitioner further submits that the notices issued in the proceedings were not served upon the petitioner and the same is reflected from the orders passed. He submits that though the notices were issued but the acknowledgment was not received by the office and that the summons envelope had also not gone back. The authorities proceeded based on the information from the postmaster, wherein it is indicated that the notices are served on the petitioner, however, there is no acknowledgment to

establish that notices are served to the petitioner or any other person in the petitioner's family. The paper publication for service was done in the newspaper, which is circulated in the Latur region and he further submits that the paper publication is an alternate mode of service, which can only be resorted to when the petitioner was avoiding the the said service. In the instant case, the petitioner being resident of Pune and the address being available with the respondent he ought to have been served at Pune, and, not having done so, the entire proceedings are vitiated on account of violation of sub rule 3 of section 18.

6. Per contra, the learned counsel appearing for the respondent submits that the petitioner has 2 addresses. He is permanent resident of Latur and he is temporary resident of Pune. However, notices issued on the Latur address are not served upon the petitioner, at least, the record does not indicate that the notices are served.

7. In view of the same, I deem it appropriate to set aside the orders passed by both the authorities below and remit the matter back to the original authority - District Deputy Registrar, Co-operative Societies, Latur / Respondent No.2.

8. The authority concerned to hear the parties and pass appropriate orders. This court is informed that the original petitioner has expired and he is now being represented by the legal heirs.

9. The legal heirs of the petitioner and the respondent / complainant to remain present before the concerned authority i.e. Respondent No.2 (District Deputy Registrar, Co-operative Societies, Latur), on 18.10.2023, so as to enable the concerned authority to fix further dates in the matter.

10. As the matter is delayed for the long period of time, it is directed that the concerned

authority to decide the pending proceedings as expeditiously as possible and the parties are directed not to seek unnecessary adjournments and prolong the matter before the concerned authority.

11. It is further directed that in the event the parties take unnecessary adjournments the authority will be entitled to proceed further.

12. The authority to decide the matter without being influenced by any part of the observations in the orders of the appellate authority, so also, of this court.

13. R & P be remitted back.

14. In view of the same, the matter is remitted back to Respondent No.2 – District Deputy Registrar, Co-operative Societies, Latur and the writ petition is disposed of with the above direction.

[ARUN R. PEDNEKER, J.]