

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 WRIT PETITION NO.3414 OF 2017

YANTRIKI MANDAL SEVAKANCHI SAHKARI PAT SANSTHA LTD.
NANDED THROUGH LIQUIDATOR AND ANOTHER
VERSUS
ASHOK DIGAMBARRAO MORE AND ANOTHER

Mr. R. K. Ingole, Advocate for the Petitioners.
Mr. S.C. Bhosle, Advocate for Respondent No.1.
Mr. S.N. Morampalle, AGP for the Respondent-State.

CORAM : SHARMILA U. DESHMUKH, J.
DATED : JANUARY 03, 2023.

PER COURT :-

1. Heard.
2. The order dated 27th October, 2015 passed by the Industrial Court at Jalna, whereby the application filed by the Respondent No.1 under Section 50 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, (for short, "*the MRTU & PULP Act*"), came to be allowed for recovery of amount of Rs.3,78,785/- as arrears of land revenue from the Petitioners. Pursuant to the certificate granted, recovery certificate was issued on 17th May, 2016 to the Administrator of Petitioner No.2-Bank.

3. The factual matrix is as under :

. The Respondent No.1 claimed to be a permanent employee of the Petitioner No.1-Yantriki Mandal Sevakanchi Sahkari Pat Sanstha Ltd. Nanded (*Petitioner-Patsanstha*). A complaint was filed under Section 28(1) read with Item Nos.5 and 9 of Schedule 4 of the MRTU & PULP Act, before the Industrial Court for payment of arrears of wages from the date of the appointment of respondent no.1, which came to be allowed by the Industrial Court and the Petitioner No.1-Patsanstha was directed to pay the arrears of wages within a period of two months. Respondent no.1 claimed that there was a balance due amount of Rs.5,18,728/-, for which an recovery application came to be filed. In the meantime, the Administrator came to be appointed on the Petitioner No.1-Patsanstha, who was an official of the Petitioner No.2-Bank. The application under Section 50, impleads the petitioner No.1-Patsanstha and also the Administrator of the Patsanstha, who was official of the Petitioner No.2-Nanded District Central Co-operative Bank Ltd., Nanded (*Petitioner No.2-Bank*) in the proceedings before the Industrial Court. The Respondent No.2 though impleaded in the capacity of Administrator of Respondent No 1 Patsanstha, the description of the Respondent No.2 is shown as an administrator of the Petitioner No.2 Bank. In the proceedings before the Industrial Court, the Administrator of the Respondent

No.1 failed to represent the Respondent No.1 and the proceedings were conducted ex-parte qua Respondent No 1, whereas the Respondent No.2 failed to submit their say.

4. Learned counsel for the Petitioners submits that the Petitioner No.2-Bank is not concerned with the complaint which was filed by the Respondent No.1, as an employee of the Petitioner No.1-Patsanstha and the only connection between the Petitioner No.2 and the Petitioner No.1- Bank is that an official of the Petitioner No.2 was appointed as an Administrator of the Petitioner No.1. He would urge that the order of recovery which was passed as against the Petitioner No.2-Bank is erroneous and is liable to be quashed and set aside.

5. *Per contra*, the learned counsel for the Respondents submits that as an Administrator, who is an official of the Petitioner No.2, Petitioner No 2 is liable to pay the amount of arrears of wages in his capacity as the administrator incharge of the petitioner No.1-Patsanstha.

6. I have considered the rival submissions. There is no dispute about the fact that the Respondent No.1 was an employee of the Petitioner No.1-Patsanstha, and any liability which arises out of the employment of the Respondent No 1 is to be paid by the Petitioner No.1-Patsanstha, and not be the Petitioner No 2 Bank.

The Administrator of the Petitioner No.1-Bank has been impleaded in the proceedings as administrator of the Petitioner No.2-Bank, which has given rise to the dispute. The order for recovery of money came to be passed against the Administrator, Nanded District Central Co-operative Bank Ltd., Nanded i.e Petitioner No.2 Bank due to the failure on part of the Petitioners to clarify the position in the recovery application.

7. The present position as informed to this Court is that the Petitioner No 1 is under liquidation and the assets of the Petitioner No.1 are in the hands of liquidator, who is entitled to sell the assets and appropriate sale proceeds towards payment of liabilities of the Petitioner No.1-Patsanstha. The Respondent no.1 is entitled to recover the arrears of wages which have been crystallized in the proceedings before the Industrial Court from the Liquidator of Petitioner No.1. The facts have not been put before the Industrial Court in the proceeding i.e. Misc. Recovery Application No.1 of 2011.

8. In my view, it would be in the interest of justice, if the matter is remanded to the Industrial court for deciding the recovery application afresh. Respondent No.1 is at liberty to implead the liquidator of the Petitioner No.1-Patsanstha, so that appropriate relief can be sought as against the Petitioner No.1. Hence, the following order.

ORDER

- (i) The order dated 27th October, 2015 issuing a certificate for recovery of amount of Rs.3,78,785/- is partly modified;
- (ii) The order dated 27th October, 2015 issuing recovery certificate as against the Petitioner No 2 , Nanded District Central Co-operative Bank Ltd., Nanded is quashed and set aside and is maintained as against the Petitioner No 1, Yantriki Mandal Sevakanchi Sahkari Pat Sanstha Ltd. Nanded;
- (iii) The Industrial Court to hear the matter afresh and take appropriate decision as per law, as expeditiously as possible and preferably within a period of eight weeks from the date of this order;
- (iv) Liberty granted to the parties to implead Liquidator of Yantriki Mandal Sevakanchi Sahkari Pat Sanstha Ltd. Nanded in Misc. Recovery Application and to seek appropriate relief as against the Liquidator of Yantriki Mandal Sevakanchi Sahkari Pat Sanstha Ltd. Nanded;
- (v) The amount of Rs.4,78,785/- deposited by the Petitioner No.2-Nanded District Central Co-operative Bank Ltd., Nanded to be governed by the final order

which would be passed in Misc. Recovery Application No.1 of 2011;

(vi) Writ Petition is disposed of in the above terms.

(SHARMILA U. DESHMUKH, J.)