

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

19 WRIT PETITION NO.7952 OF 2023

1. Balasaheb S/o. Narsuba Devkate, **...PETITIONERS**
2. Kusum W/o. Balasaheb Devkate

VERSUS

1. The Secretary, **...RESPONDENTS**
Co-operation, Marketing & Textile
Department, Madam Kama Marga,
Hutatma Rajguru Chowk,
Mantralaya, Mumbai-32
2. The Registrar (General)
Money Lending, Maharashtra State,
Pune
3. The Divisional Joint Registrar,
Co-operative Societies,
Latur
4. District Deputy Registrar,
Co-operatives Societies,
Osmanabad
5. Assistant Registrar, Co-operative Societies,
Osmanabad, Tq. & Dist. Osmanbad
6. Chandrakant Pandhari Phere

Mr. Vijay P. Latange, Advocate for the petitioners
Mr. S. S. Panale, Advocate for the respondent No. 6
Mr. K. N. Lokhande, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 12th JULY, 2023

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1. Heard the learned advocate for the petitioners, learned advocate for the respondent and learned AGP for the respondents/State.

2. Reply is taken on record.

3. The basic facts giving rise to the present petition are as below:

a] Respondent No.6 filed the proceeding under Money Lending Act before the District Deputy Registrar. Same came to be rejected. Respondent No. 6 therefore, filed an appeal to the Divisional Joint Registrar, Latur. The Divisional Joint Registrar, Latur remanded the matter for fresh decision to the District Deputy Registrar, Osmanabad. The petitioner challenged the order of remand by filing the revision before the Registrar

(General), Money Lending, State of Maharashtra, Pune. However, no stay application is decided by the revisional authority. Since there was no stay granted by the revisional authority the learned District Deputy Registrar, Osmanabad decided the proceeding and declared the sale deed in favour of the petitioner as illegal. The petitioner is therefore, before this court.

4. It is tried to canvass that time and again enquiry is going on and nothing was found against the petitioner. Further contention is that when the revision was pending against the order of remand the learned District Deputy Registrar, Osmanabad should not have proceeded with the proceeding. He submits that thus it requires interference at the hands of this court and alternative remedy will not be a bar.

5. As against that the learned advocate for the caveator and learned AGP submit that in the impugned order itself it is stated that order is appealable and the petitioner can file an

appeal before the appellate authority.

6. However, on going through the basic facts this court finds that when revision filed by the petitioner was pending before the revisional authority, in any case the learned District Deputy Registrar, Osmanabd should not have passed the final order in the proceeding. Technically though the learned District Deputy Registrar, Osmanabad can justify, still he should avoid passing of such order which effect of making revision pending before his superior infructuous. This court, therefore, entertained the petition only to that extent. Till the revision No. 7/2022 is decided by the Registrar (General), Money Lending, State of Maharashtra, Pune the order passed by the District Deputy Registrar, Osmanabad i.e. 17-05-2023 be kept in abeyance and shall be subject to out come of the revisional proceeding. With this, writ petition stands disposed off.

[KISHORE C. SANT, J.]