IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

10 WRIT PETITION NO.13258 OF 2022

Maruti s/o Bhaurao Wani

Versus

1. The State of Maharashtra
2. Ramchau Rangnath Jadhav
3. The Assistant Registrar
4. The Divisional Joint Registrar
5. The Special Rgistrar, Money Lending Co-Operative Societies, Central Administrative Building, Pune.

...

Advocate for Petitioner : Mr. K.C. Khandpure h/f Mr.Gaikwad (Patil) Ajit B.
AGP for Respondent No. 1/State : Mr. K.N.Lokhande
Advocate for Respondent No.2 : Mr.Jadhav Walmik S.

...

CORAM : KISHORE C. SANT, J.

DATE : 05.07.2023.

PER COURT :

1. Heard the learned Advocate for the parties. The challenge in this petition is to the order passed by the Registrar General, Maharashtra, Pune under the Money Lending Act and Special Registrar, Co-Operative Societies, Maharashtra State, Pune, rejecting the revision application of the petitioner under

the Maharashtra Money Lending (Regulation) Act, 2014.

2. The main contention of the petitioner is that he has lost before all the forums i.e. the District Registrar under the Money Lending Act and the Joint Registrar, Dy. Director, Co-Operative Societies, Aurangabad and the Divisional Joint Registrar, Co-Operative Societies, Aurangabad, before the Registrar General.

3. It is the case of the respondent No. 2 that the petitioner had taken a land by lending amount and the sale deed was executed on 31.03.2005. The sale deed was infact towards the money lending transaction and not out and out sale executed by him. He had taken a loan of Rs. 80,000/- and towards security to the transaction land of 60R was taken by the petitioner. Though the amount was repaid still, no re-conveyance is executed. On these allegations he had filed a complaint.

4. The learned District Registrar under the Act recorded the evidence of respondent No. 2. Respondent No. 2 in his support filed affidavits of three persons one Vishnu Rangnath, respondent No. 2 and his son.

5. The first authority by relying upon a report and the affidavit, held that the transaction was towards money lending transaction. In an inquiry it is seen that there are other two transactions with Bapu Punjaram Navthar, wherein, the sale deeds were executed on 26.03.2002 and 14.06.2002.

6. The petitioner preferred an appeal bearing Appeal No. 24 of 2018 before the Divisional Joint Registrar, Co-Operative Societies, Aurangabad. He also concurred with the findings of the Registrar and has held that the transaction was money lending transaction. The said judgment is confirmed by the Registrar General under the Money Lending Act.

7. The learned Advocate for the petitioner submits that in fact this transaction is not towards the money lending transaction and is an isolated transaction. He relies upon the judgment of this Court in **Criminal Writ Petition No. 343 of 2017**, Uttam Bhikaji Belkar v. The State of Maharashtra and others, wherein, it is held that an isolated transaction is not a money lending transaction and it would not be enough to attract the provisions of the Act. He submits that in this case there is only one transaction towards the money lending

transaction, two other transactions which are considered by the authorities were only voluntarily entered transactions. Those transactions cannot be considered to come to conclusion that the present transaction is money lending transaction. It is also stated that the witnesses examined were interested witnesses. Respondent No. 2 himself was one of the witnesses. His son had the business relations with the witnesses, who were the witnesses on the sale deed in question. There is no any independent witness examined before the authorities. There are no other complaints made by any person and an inquiry thus itself is not properly conducted and on the basis of that a conclusion is drawn.

8. The learned Advocate for respondent No. 2 vehemently opposes the petition stating that he has sufficiently demonstrated before the authorities that the transaction was a money lending transaction. Prior to the transaction in question, the petitioner had entered into two other transactions which were duly considered by the authorities. He further submits that the first authority has rightly considered the affidavits of the witnesses and their cross-examination. The Court also found that respondent No. 2 has paid the amount of interest @

5% p.a., in addition to giving of a land in possession of the petitioner. There is also a deed executed i.e. relinquishment deed and the same was for cancellation of the sale deed. The document is also on record and is admitted. He thus, prays for rejection of the petition.

9. The learned AGP appearing for respondent No. 1 and other authorities supports the orders passed by the authorities.

10. This court finds that there are three authorities, who have concurrently held in favour of respondent No. 2 i.e. Rambhau Rangnath Jadhav. There is clear finding that respondent had paid the amount of rs. 48,000/- towards the interest. When that is true, it would clearly show that the transaction was in fact money lending transaction, then there was no question of respondent paying any amount to the petitioner towards the interest. Thus, by paying interest it amply shows that the transaction was the money lending transaction. This Court, therefore, finds that no case is made out by the petitioner to call for interference at the hands of this Court, though he tried to submit that there are 7 suits pending in the Civil Court, however, considering that this Act is a Special Act

and the authorities act within its powers. Merely the pendency of the Civil Suit will not affect the judgment under the Special Act.

11. This Court finds that the petition deserves to be dismissed and is dismissed. No order as to the costs.

(KISHORE C. SANT)
JUDGE

mahajansb/