

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

946 WRIT PETITION NO.1825 OF 2021
WITH CP/18/2023 IN WP/7451/2014

MUKESH HANSRAJ JAIN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Rupeshkumar C. Bora
AGP for Respondents State: Mr. S. B. Yawalkar
Advocate for Respondent No.4 : Mr. Pramod Gaikwad

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 3rd August, 2023

ORDER:

1. We have considered the strenuous submissions of the learned Advocate for the petitioners and have gone through all the seven grounds formulated in the memo of petition.

2. Respondent No.4 in this petition was also a respondent in Writ Petition Nos. 8215 of 2018, 11737 of 2016 and 3843 of 2016.

3. This Court had passed an order on 23rd January, 2019, recording in paragraph Nos. 1 to 6 as under:

"1. The petitioners herein are depositors of Shri Samarth Nagari Sahakari Patpedhi Maryadit. The Assistant Registrar is appointed as a Liquidator.

2. On the last date, we had asked for the details from the liquidator as to the manner in which disbursement of the

amount is made to the depositors and the steps taken to realize the amount. Today, the liquidator has filed an affidavit and states that approximately about Rs. 87 lakhs have been received from auction of the property. From the said amount, Rs. 79 lakhs have been disbursed to the depositors. After perusing the list, it appears that amongst 2-3 depositors only almost Rs. 45 lakhs have been disbursed, whereas to the majority of the depositors only Rs.5000/- each have been disbursed. In fact, the liquidator has to chalk out the scheme and the payment has to be made in accordance with the scheme.

3. Under the Maharashtra Co-op. Societies Act, once the Society is under liquidation and the liquidator is appointed, it is the liquidator, who has to disburse the amount in accordance with the priority claims as laid down in the Act and the circulars.

4. It is submitted that because of the orders passed in writ petition and the contempt petition, the amount was required to be paid to those depositors. In fact, the amount ought to have been disbursed on pro rata basis, of course, considering the priority claims. It is submitted that there are 16500 depositors. The total amount of deposit is to the tune of Rs. 2920.77 lakhs. The Society has to recover about Rs.2166.34 lakhs from the borrowers. Even if the entire amount is received, there would be still deficit. The liquidator shall chalk out the scheme as to the manner in which the payment of the depositors is to be made. The liquidator has to consider that no favoritism is shown to the particular depositors. It is also expected that the

liquidator takes steps to recover the amount from the defaulters. It is further submitted that all proceedings under Section 101 of the M.C.S. Act are completed and the properties are now put to auction and amount is being realized. The same shall be expedited.

5. Considering the large number of depositors and the amount to be recovered, we direct the District Deputy Registrar to supervise the working of the liquidator with regard to the distribution of the amount to the depositors. The liquidator shall take immediate steps to realize the amount and to distribute the amount to the depositors without showing favoritism to the particular depositors. It also appears that more amount is paid to some of the depositors. We do not find any scheme having been chalked out. The liquidator in consultation with the District Deputy Registrar shall chalk out the scheme with regard to repayment. The same shall be done expeditiously and preferably within a period of six weeks from today and the amount shall be paid to the depositors after recovery in tune with the scheme in accordance with law, so also considering the priority as laid down in the circulars.

6. The writ petition is disposed of. No costs."

4. We are in complete agreement with the view taken by this Court vide order dated 23rd January, 2019, more particularly, Paragraph Nos. 4 and 5.

5. The Petitioner prays for directions for disbursement of money within a time frame. This Court cannot direct the liquidator as regards the time line within which the amounts will have to be disbursed and to whom it can be disbursed, since it all depends upon several contingencies, primarily on the sale of properties in liquidation. Therefore, the view taken by this Court in paragraph Nos. 4 and 5 reproduced above would be squarely applicable to the petitioner and the liquidator will have no scope or room to show any favouritism to any particular depositor. He would strictly abide by the terms set out in paragraph Nos. 4 and 5 and if any deviation is brought to our notice, we would take a stern view in that matter.

6. With the above observations and directions, **this petition is disposed off.**

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan