

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

WRIT PETITION NO. 885 OF 2022

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| 1. Sanjay s/o. Pannalal Karwa
Age. 50 years, Occ. Business,
R/o. Roshan Housing Society,
Garkheda, Aurangabad. | .. | Petitioner |
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Versus

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| 1. Divisional Joint Registrar,
Co-operative Society, Aurangabad,
Tq. District Aurangabad. | .. | Respondents |
| 2. Sub-Registrar,
Co-operative Society, Aurangabad,
Tq. District Aurangabad. | | |
| 3. Vardhaman Nagari Sahakari Pat Sanstha
Main Office, Main Road, Mukundwadi,
Aurangabad. | | |
| 4. Recovery Officer, Vardhman Nagari Sahakari
Pat Sanstha, Main Office, Main Road,
Mukundwadi, Aurangabad. | | |
| 5. Balu Sakharam Tupe
R/o. Shendraban Varud Qazi,
Tq. And District Aurangabad. | | |
| 6. Chaya Sanjay Karwa
R/o. Roshan Housing Society,
Garkheda, Aurangabad. | | |

Mr. Shreyas S.Deshpande, Advocate for the petitioner.
Mr. S.B. Pulkundwar, AGP for the respondent/State.
Mr.K.J. Suryawanshi, Advocate for respondent No.4.

CORAM : KISHORE C. SANT, J.
DATED : 04.08.2023

PC :-

01. Heard learned Advocates for the parties. By consent, the petition is taken up for final disposal.

02. The petitioner has challenged an order passed by the Divisional Joint Registrar, refusing to entertain revision under section 154(2) of the Maharashtra Co-operative Societies Act for non-deposit 50% of the amount of recoverable dues. The petitioner had challenged the certificate issued by the learned Sub-Registrar i.e. respondent No.2 under section 101 of the Act against the petitioner. The amount of recovery as per certificate is Rs.34,37,369/- as on 31.01.2020. The petitioner filed revision before respondent No.1, however, without depositing amount of 50% of the recoverable dues. Respondent No.1, therefore, passed order dated 26.08.2021 refusing to register the revision.

03. The petitioner submits that after order dated 26.08.2021 he deposited amount of Rs.12,50,000/- in two installments of Rs.6,25,000/- each on 06.09.2021 and 18.09.2021. The petitioner submits that, however, said amounts are not considered to be deposit against the condition under section 154(2-A) of the Act. This amount, in-fact, is deposited within about a month of passing of the order. His only limited prayer now before this Court is that the amount which he deposited in the account of the bank be treated as deposit towards condition under section 154(2-A) of the Act.

04. The learned Advocate for the respondent has filed reply. He points out that application under section 154(2-A) was filed in February, 2021. As per the extract annexed to his reply, he submits that the amount of recovery as on 27.02.2021 was Rs.40,38,556/-. He relies upon judgment in the case of **Barindra Overseas Pvt. Ltd. & Anr. Vs. Shilpa Shares and Securities & Ors., reported in 2019(3) Mh.L.J.651**, wherein Single Bench of this Court at Principal Seat, by considering earlier judgments has held that the amount of deposit for the purpose of 154(2) is amount of recoverable dues as on the date of filing of an application. Thus, he submits that the amount needs to be calculated on 50% of the amount dues as on 27.02.2021. He graciously

accepts that the amount already deposited can be considered towards deposit of 50% of the amount.

05. Considering the above, this Court finds that the interest of justice can be met by directing the petitioner to deposit the remaining amount of 50% of the amount of 40,38,556/- within six weeks from today. Respondent No.1 to consider the revision application after deposit of the remaining amount to make 50% of recoverable due as on the day of filing of a revision, within six weeks. It is expected of respondent No.1 to dispose off the revision as early as possible and preferably within four months from the date of deposit of the amount.

06. With above directions, the writ petition stands disposed off with no order as to costs.

[KISHORE C. SANT, J.]