

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13611 OF 2017

Shri. Kurukali Gramin Bigar Sheti
Sahakari Patsanstha Maryadit & Anr. ...Petitioners
Versus
Divisional Joint Registrar Cooperative Societies,
Kolhapur & Ors. ...Respondents

Mr. Chetan G. Patil, for the Petitioners.

Mr. S. H. Kankal, AGP, for Respondent No.1-State.

Mr. Abhijit M. Adagule, for Respondent Nos.2 to 4.

**CORAM : MADHAV J. JAMDAR, J.
DATED : 24th AUGUST 2023**

P.C. :

1. Heard Mr. Chetan Patil, learned counsel appearing for the Petitioners, Mr. Kankal, learned AGP appearing for Respondent No.1-State and Mr. Abhijit Adagule, learned counsel appearing for Respondent Nos. 2 to 4.

2. The impugned order in the present Writ Petition is order dated 20th May 2016 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur in Revision Application No.348 of 2013. By the impugned order, the said

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Revision Application filed by the present Respondent Nos. 2 to 4 against the present Petitioners-society was allowed by directing that the society to act in accordance with Section 44A of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as **“the said Act”**) in respect of the recovery of the loan of the Applicants i.e. present Respondent Nos.2 to 4.

3. It is the main contention of Mr. Chetan Patil, learned counsel appearing for the Petitioners that the said Revision Application should have been dismissed for non-compliance of order dated 27th April 2015 passed by a learned Single Judge in Writ Petition No.3915 of 2014. Mr. Chetan Patil, learned counsel appearing for the Petitioners has relied on the following portion of order dated 27th April 2015 passed by the learned Single Judge in Writ Petition No.3915 of 2014:-

“In my view the Revision Application filed by the Respondent nos.2 to 4 was not maintainable in view of non-compliance of Section 154(2A) which objection was specifically raised by the Petitioner, but was overlooked by the Divisional Joint Registrar. The impugned order dated 05.10.2012 would therefore have to be quashed and set aside

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and accordingly quashed and set aside and the matter is required to be relegated back to the Divisional Joint Registrar for a de-novo consideration of the Revision Application. **The Divisional Joint Registrar would take up the Revision Application for hearing, only if the Respondents comply with Section 154(2A) of the said Act.** If the Respondent Nos.2 to 4 have paid any amount pursuant to the impugned order, the credit for the same would have to be given whilst calculating the amount to be deposited under Section 154(2A). The balance amount if any be deposited within six weeks from date i.e. on or before 08.06.2015, if the amount is not deposited the benefit of this order would not enure to the Respondent nos.2 to 4 and resultantly, Revision Application would stand dismissed. Needless to state that if amount is deposited, the Divisional Joint Registrar would proceed to consider the Revision Application on merits. The contentions of the parties are kept open for being urged before the Divisional Joint Registrar. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs.”

(Emphasis added)

4. Thus, it is clear that the learned Single Judge has

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specifically directed that the Divisional Joint Registrar should take up the Revision Application for hearing only if the Respondent Nos. 2 to 4 comply with Section 154(2A) of the said Act. It is admitted position that the recovery certificate is for the amount of Rs.63,565/- and therefore, 50% amount as contemplated under Section 154(2A) of the said Act is Rs.31,782/-. It is also admitted position that Respondent Nos. 2 to 4 had only deposited Rs.10,000/-.

5. On the last occasion, after arguing for some time, Mr. Abhijit Adagule, learned counsel appearing for Respondent Nos. 2 to 4 took time to take instructions. Today after taking instructions, Mr. Adagule, learned counsel appearing for the Respondent Nos. 2 to 4 states that the balance amount of Rs.21,782/- will be deposited by the Respondent Nos.2 to 4 before the Respondent No.1 within a period of four weeks from today. It is the contention of Mr. Chetan Patil, learned counsel appearing for the Petitioners that the said amount be directed to be deposited with the Petitioner-society. However, the Respondent Nos.2 to 4 are relying on Section 44A of the said Act which prohibits in certain circumstances recovery of

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interest of sum greater than the amount of the principal loan amount. It is the case of the Respondent Nos. 2 to 4 that Section 44A is applicable to the present case. Therefore, in the facts and circumstances of this case, deposit by the Respondent Nos. 2 to 4 of said amount of Rs.21,782/- with the Respondent No.1 will be the sufficient compliance of Section 154(2A) of the said Act.

6. As the impugned order dated 20th May 2016 passed by the learned Divisional Joint Registrar, Co-operative Societies is contrary to the directions issued by the learned Single Judge in Writ Petition No.3915 of 2014, the same is quashed and set aside. The said Revision Application No.348 of 2013 is restored to the file of Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur. The Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur is requested to dispose of the said Revision Application within a period of six months from today.

7. It is clarified that this Court has not expressed any opinion on the merits of the case and all the contentions of both the parties on merits are expressly kept open.

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8. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]