

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4422 OF 2021

The Kolhapur District Central Co-op. Bank Ltd.
and Anr. ... Petitioners

Versus

Shetkari Sahakari Tambakhu Kharedi Vikri
Sangh Ltd. and Ors. ... Respondents

**WITH
CIVIL REVISION APPLICATION NO. 105 OF 2021**

The Kolhapur District Central Co-op. Bank Ltd.
through Chief Executive Officer ... Applicant

Versus

Shetkari Sahakari Tambakhu Kharedi Vikri
Sangh, Kolhapur through Manager,
Gajanan G. Mahadik ... Respondent

— —

Mr. T. S. Ingale for the Petitioners in writ petition and for the
Applicants in Civil Revision Application.

Mr. Mohansinh U. Rajput for the Respondent No.1.

Mr. Sandeep Koregave for the Respondent No.2.

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CORAM : SHARMILA U. DESHMUKH, J.

DATE : August 3, 2023.

P. C. :

1. The claim of the revision-applicant, who is also
Petitioner in writ petition is that the applications which were filed
under Order 7 Rule 11 (b) and (d) of the Code of Civil Procedure,
1908, were decided without giving an opportunity of hearing to the

Applicants to argue the applications. This position is not disputed by the learned counsel appearing for the Respondent no.1, who submits that even the Respondents were not heard and the trial Court has decided the applications in absence of the parties based on averments made in the applications. In my view, in event, the Applicants were not present the proper course of action that could have been taken was dismissal of the application for non-prosecution.

2. Considering the consensus which have been arrived at between the counsels that the matter be remanded to the trial Court to decide afresh after giving an opportunity of hearing to both the parties, the revision application and the writ petition can be disposed of.

3. In view of the consensus, which have been arrived at, the impugned order dated 28th January, 2020 below Exh.52 and the order dated 28th January, 2020 below Exh.66 are hereby quashed and set aside and the matters are remanded to the trial Court. The trial Court to decide the applications at Exh.52 and 66 afresh, after giving an opportunity of hearing to both the parties, without being uninfluenced by the observations made herein above.

4. The parties to appear before the Trial Court on **21st August, 2023**. The trial Court to hear the parties expeditiously and to decide the application Exh.52 and Exh.66 within a period of four weeks thereafter. Learned counsel for the parties assure that the parties will cooperate with the hearing and will not seek adjournments.

5. Writ Petition and Civil Revision Application stand disposed of in the above terms.

(Sharmila U. Deshmukh, J.)