

Prajakta Vartak

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

**WRIT PETITION NO. 9577 OF 2014
AND
WRIT PETITION (STAMP) NO. 25836 OF 2014**

Dr. Annasaheb Chougule Urban
Co-operative Bank Ltd. ..Petitioner
Vs.
Fyico Engg. Works & Ors. ...Respondents

Mr. Umesh Mankapure for Petitioner.
Mr. Kishor Patil for Respondent No.1.
Mr. Pratik Rahade for Respondent No.3.

**CORAM : G.S. KULKARNI, J.
DATE : JANUARY 12, 2023**

PC.:

1. Heard learned counsel for the parties.
2. Both these proceedings assail the judgment and order dated 22 April, 2014 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur, whereby Revision Application No.105 of 2007 as filed by respondent no.1 has been allowed and the impugned recovery certificate dated 25 January, 2007 has been quashed and set aside.
3. After having heard learned counsel for the parties and having perused the record and the impugned order, it appears that the basic premise on which the impugned order has been passed is that the

original documents of loan were not produced by the petitioner before the Divisional Joint Registrar and considering such aspect of the matter and the respondents having denied the loan, the learned Divisional Joint Registrar was of the opinion that the case of the respondent that the loan was not disbursed by the petitioner bank ought to be accepted. On such reasoning, the revision as filed by the respondent was allowed.

4. In the aforesaid circumstances, by an earlier order, learned counsel for the petitioner was directed to place before the Court original documents of the loan as disbursed to the respondent. Accordingly, learned counsel for the petitioner tendered the original documents in relation to the loan as disbursed in favour of the respondent for perusal of the Court. I have perused the documents so also they are examined by the learned counsel for the respondent.

5. On the above premise and on deliberation, in my opinion, it would be in the fitness of things that all these documents in relation to the loan in question are produced before the Divisional Joint Registrar and a fresh decision be taken by the Divisional Joint Registrar on the revision application filed by the respondent. For such reasons, the impugned order is required to be quashed and set aside. Hence the following order:-

ORDER

- i. The impugned order dated 22 April, 2014 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur is quashed and set aside.
- ii. The parties are directed to appear before the Divisional Joint Registrar on 24 January, 2023 along with a copy of this order.
- iii. The petitioner is also expected to produce all the original documents in relation to the loan before the Divisional Joint Registrar.
- iv. The Divisional Joint Registrar shall hear the parties on all contentions and the documents and pass a fresh order in accordance with law.
- v. In passing the fresh order, the Divisional Joint Registrar shall not be influenced by the orders passed earlier and as impugned in the present proceedings.
- vi. Disposed of in the aforesaid terms. No costs.

[G.S. KULKARNI, J.]