

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

**INTERIM APPLICATION NO.18325 OF 2023
IN
PUBLIC INTEREST LITIGATION NO.194 OF 2004**

The Liquidation Committee
Bhudargad Nagari Sahakari
Patsantha Ltd.

... Applicant
(Orig. Respondent No.4)

**In the matter of Public Interest
Litigation No.194 of 2004**

Subhash Shankar Ambike & Ors.
V/s.

... Petitioners

The State of Maharashtra & Ors.

... Respondents

**AND
INTERIM APPLICATION (ST) NO.35224 OF 2023
(NOT ON BOARD)**

**IN
INTERIM APPLICATION NO.18325 OF 2023
IN
PUBLIC INTEREST LITIGATION NO.194 OF 2004**

Anand Maruti Patil

... Applicant
(Prop. Respondent)

**In the matter of Interim Application
No.18325 of 2023 in Public Interest
Litigation No.194 of 2004 Between**

The Liquidation Committee,
Bhudargad Nagari Sahakari
Patsantha Ltd.

... Applicant
(Orig. Respondent No.4)

**In the matter of Public Interest
Litigation No.194 of 2004 Between**

Subhash Shankar Ambike & Ors.
V/s.

... Petitioners

The State of Maharashtra & Ors.

... Respondents

Mr. Tejesh Dande with Mr. Chinmay Deshpande, Mr. Pratik Sabrad and Mr. Vikrant Khare i/by Tejesh Dande & Associates for Liquidation Committee-Applicant and for Respondent No.4 in PIL No.196 of 2004.

Mr. Ashutosh Kulkarni, Amicus Curiae in PIL No.196 of 2004 (appeared through Video Conferencing).

Mr. Prashant Bhavake in IAST No.35224 of 2023 (not on board).

Mr. Anil Sakhare, Senior Counsel a/w Mr. Bhushan Walimbe i/by Preeti Walimbe in IA No.18030 of 2023 for the Intervenor.

Mr. B. V. Samant, Addl. GP, Mr. M. M. Pabale, AGP for the Respondent-State.

Mr. Anil B. Prabhu, Applicant in Person in CAI No.33 of 2007 and CA No.1985 of 2019 is present.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ. &
ARIF S. DOCTOR, J.**

DATE : 22nd DECEMBER 2023

P.C. :

The Applicant in Interim Application No.18325 of 2023 is the Liquidation Committee of Budhargad Nagari Sahakari Patsanstha Limited ("*The Society in Liquidation*") and has filed the said Application seeking an extension of time granted by this Court by its previous orders to complete the

task of liquidation as also best recovering amounts due to the depositors and/or the Society in Liquidation.

2. Interim Application (ST) No.35224 of 2023 is not on board and the same is moved by way of a praecipe. Hence, the said Interim Application is taken on board by consent of the learned Counsel for the parties.

3. The Applicant in Interim Application (ST) No.35224 of 2023 claims to be one of the depositors of the said Society in Liquidation and has filed the said Interim Application to oppose the grant of any further extension of time.

4. We have heard Learned Counsel for the parties and perused the Interim Applications.

5. Mr. Dande, Learned Counsel appearing on behalf of the Applicant Committee in Interim Application No.18325 of 2023, at the outset, invited our attention to the order dated 21st February 2013 (Dr. D. Y. Chandrachud & A. A. Sayed, JJ.)

passed in the captioned Public Interest Litigation by which *inter alia* detailed directions have been issued to the Applicant Committee for proceeding with the liquidation. He then invited our attention to the last order dated 10th January 2023 (R. D. Dhanuka & M. M. Sathaye, JJ.) passed in the captioned Public Interest Litigation and pointed out that the same had *inter alia* directed as follows :-

- (a) the Applicant to file quarterly reports, before this Court, of the steps taken;
- (b) to explore the possibility of merger of the Society in Liquidation with any other cooperative bank as may be permissible in law and;
- (c) directing the Applicant Committee to make a representation, within four weeks from the date of the order, to the State Government for providing financial assistance to the Society in Liquidation.

6. Mr. Dande then points out that the Applicant Society had pursuant to the order dated 10th January 2023 infact taken various steps, all of which will enure to the benefit of the depositors. He first pointed out that from January 2023 to October 2023, the Applicant Committee had recovered an amount of Rs.626.48 lakhs by way of cash and deposit matching from 259 different borrowers. The Applicant Committee had also during the said period refunded an amount of Rs.732.96 lakhs to 2432 depositors. He additionally pointed out that the Applicant Committee had attached immovable properties of 21 different borrowers for recovery of an amount of Rs.525.40 lakhs and had registered its charge/lien over several properties of 82 different borrowers for recovery of Rs.663.21 lakhs. A tabular chart of this data has also been annexed to the Interim Application.

7. Additionally, Mr. Dande points out that the Applicant has announced an auction of seven properties owned by the Society in Liquidation for a reserve price of an amount of

Rs.19.52 crores. He submits that the auction is scheduled to be held in January 2024.

8. Insofar as the compliance of the order is concerned by filing Affidavits of the steps taken, he submits that the Applicant Committee had also duly been complied with the same. He then invites our attention to Paragraph 16 of the Interim Application to demonstrate the compliance by the Applicant Committee for the steps that are being taken *inter alia* for merger of the Society in Liquidation, etc. Thus, basis this, he submits that the Applicant Committee seeks a further extension of time for a period of 15 months to complete the liquidation proceedings.

9. Mr. Kulkarni, Learned Amicus Curiae confirms the steps taken by the Applicant Committee. He does not oppose the extension of time and submits that the same would be in the interest and benefit of the depositors.

10. Mr. Prashant Bhavake, Learned Counsel for the Applicant in Interim Application (ST) No.35224 of 2023 opposes the Application for extension of time. He invites our attention to the statutory regime contained in Section 109 of the Maharashtra Co-operative Societies Act, 1960 and submits that no extension of time can be granted beyond the period prescribed therein. He submits that the statutory period of 15 years has already come to close and thus the time cannot now be extended.

11. On a query from the Court as to how his client, as a depositor, would be prejudiced by steps taken for recovery and realisation of amounts due to the Society in Liquidation, which will ultimately enure to the benefits of such depositors, Mr. Bhavake could not provide any explanation. He however reiterated that there must be finality to the liquidation proceedings and the same could not continue indefinitely.

12. Mr. Dande, Learned Counsel for the Applicant Committee strongly disputed the locus of the Applicant in Interim Application (ST) No.35224 of 2023. He submitted that

the Applicant was infact a defaulter/borrower, whose properties were now being attached and, hence, the Interim Application has been filed only in an attempt to defeat the attachment. He pointed out that the Applicant has now only at the eleventh hour approached this Court to ensure that his properties are not attached and for no other reason. In any event, he sought time to place the said facts on record by filing an Affidavit to oppose the captioned Interim Application for intervention.

13. Having heard Learned Counsel, perused the earlier orders passed by this Court as also having heard the learned Amicus Curiae, we are satisfied that the Applicant Committee has since the last order dated 10th January 2023 demonstrably taken adequate steps in compliance with the order of this Court. The Applicant Committee has followed the procedure laid down in the order dated 21st February 2013. These steps can only enure for the benefit of the small depositors, who are very large in number. We are conscious of the statutory regime provided in the Maharashtra Co-operative Societies Act, 1960. However, the present Interim Application having been filed in a Public Interest

Litigation, in which this Court has not only entertained, but has also laid down a detailed procedure as also issued directions, which we find, are being complied with. It would thus, in our view, be in the overwhelming interest of the small depositors that a further extension of time is granted to the Applicant Committee to complete the task undertaken and which is presently incomplete and underway.

14. Insofar as the objection taken by the Applicant in Interim Application (ST) No.35224 of 2023, we find that since the matter was taken on board only today by allowing the praecipe, in the fitness of things that the Applicant Committee be given an opportunity to respond to the same. Hence, we pass the following order :-

- (i) Interim Application No.18325 of 2023 is allowed in terms of the prayer clause (a), subject however to the Applicant therein filing a status report before this Court every three months Court and following procedure in the order dated 21st February 2013.

(ii) Reply Affidavit to Interim Application (ST) No.35224 of 2023 to be filed within a period of four weeks from today.

(iii) With the aforesaid directions, we dispose of Interim Application No.18325 of 2023 making it clear that this Court shall if not satisfied that adequate steps are being taken, pass suitable orders in the Public Interest Litigation Petition even before the extended date.

15. Public Interest Litigation No.194 of 2004 and all other pending Interim Applications including Interim Application (ST) No.35224 of 2023 stood over to 1st March 2024 under the caption 'For Directions'.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)