

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 5836/2022

AMRAVATI ZILLA PARISHAD EMPLOYEES CREDIT CO-OP. SOCIETY LTD., THR.
LIQUIDATOR, SANDIP D. DESHMUKH

VS

PARAMJEETSINGH SALUJA AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri J.B. Kasat, advocate for the petitioner.

CORAM : ANIL S. KILOR, J.

DATED : 30/01/2023

1. Heard.
2. In this writ petition, the judgment and order dated 21/10/2021 confirming the dismissal of the dispute filed by the petitioner for recovery of the outstanding loan amount of Rs. 67,006/- with interest, passed by the Cooperative Court, Amravati is under challenge.
3. The brief facts of the present case are as under:-

Respondent Nos. 1 and 2 are the legal heirs of the Balbirsingh Surjitsingh Saluja. The petitioner/society sanctioned and disbursed the loan of Rs. 10,000/- to Balbeersingh on 07/05/1991, therefore, on failure to repay the said loan amount, the dispute was filed before the Cooperative Court, Amravati. During the said dispute, Balbirsingh died and respondent No.1 was added as a party

in view of the fact that, he was appointed on compassionate ground, in place of Balbirsingh. The total claim was of Rs. 67,006/-.

4. The Cooperative Court dismissed the dispute on the ground that, the petitioner/disputant society failed to prove the legal heirs of Balbirsingh are jointly and severally liable to pay the claim amount with interest @ 22.5%. The Cooperative Court has observed that, the petitioner/disputant society has failed to prove the basic ingredients of Section 49 of the Maharashtra Cooperative Societies Act, 1960 (in short 'the Act of 1960'), and further the petitioner failed to prove the intimation, demanding the loan installment and further the opponent No.4 was served with attested copies of the loan agreement executed between the deceased Balbirsingh and disputant society and accordingly, the dispute was dismissed.

5. The petitioner society filed an appeal under Section 97 of the Act of 1960, which came to be dismissed. Both the Courts below have held that, the disputant society failed to prove the loan transaction by examining the witnesses and accordingly, as the disputant society failed to prove any disputed dues, principal and interest against the principal borrower, the appeal was dismissed vide impugned judgment.

6. Shri J.B. Kasat, learned advocate for the petitioner/society submits that both the Courts below have failed to consider that sufficient evidence was produced by the petitioner/society to establish the claim against the opponents. He, therefore, submits that both the judgments and order need to be quashed and set aside.

7. After going through the concurrent findings recorded by both the Courts below, it can be seen that the petitioner/society failed to prove the loan documents and failed to examine the appropriate witnesses to prove the genuineness of the loan documents and accordingly, both the Courts below have rightly held against the petitioner. Nothing has been pointed out by the petitioner to arrive at a conclusion that, there is any perversity committed by both the Courts below in holding against the petitioner.

8. Thus, in absence of any error or perversity committed by both the Courts below, I am not inclined to interfere with the impugned judgment and order. Accordingly, the writ petition is **dismissed**.

JUDGE