

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

Writ Petition No.7713 of 2018

Ashish S/O Ajayrao Pathak

Vs

Government Of Maha., Thr. Divisional Joint Registrar, Cooperative Societies,
Nagpur 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 S.K. Tambde, Advocate for the Petitioner/s

Shri Pranit Vairagade, Adv. h/f Shri B.M. Dafle, Advocate for the respondent
No.3

CORAM : ANIL S. KILOR, J.

DATED : 17.07.2023

1. Heard.

2. This matter pertains to Recovery Certificate under Section 101 of the Maharashtra Cooperative Societies Act, 1960 (for short "the Act of 1960") issued on 03.09.2015 and re-issued on 18.04.2017 on remand by this Court.

3. This Court, while considering the correctness and validity of the Recovery Certificate dated 03.09.2015 issued by the Assistant Registrar, Co-operative Societies, Nagpur, directed the petitioner to deposit the amount of Rs.6,00,000/- along with interest accrued thereon, which the petitioner has deposited in this Court and the matter was remanded back to the Assistant Registrar, Co-operative Societies, Nagpur for deciding the same afresh.

4. In complete defiance of the order of this Court, the Assistant Registrar, Co-operative Societies, Nagpur reproduced the order dated 03.09.2015 *ad verbatim* and re-issued the recovery certificate vide order dated 18.04.2017 under Section 101 of the Act of 1960. The only change he made in the order dated 18.04.2017, are about outstanding amount and the amount of interest.

5. In the revision, the Divisional Joint Registrar, Co-operative Societies, Nagpur failed to consider the above referred fact and maintained the order of Assistant Registrar, Co-operative Societies, Nagpur, dated 18.04.2017.

6. In the above referred facts and circumstances, I am of the opinion that the impugned Recovery Certificate dated 18.04.2017 and the order passed by the Divisional Joint Registrar in Revision No.515/2017 dated 19.04.2018, are liable to be quashed and set aside.

7. The matter is remanded back to the Assistant Registrar, Co-operative Societies, Nagpur to decide the same afresh, after hearing both the parties. Accordingly, I pass the following order:

(i) The writ petition is partly **allowed**.

(ii) The order dated 18.04.2017 passed by Assistant Registrar, Co-operative Societies, Nagpur and the order dated 19.04.2018 passed by the Divisional Joint Registrar, Co-operative Societies, Nagpur, are hereby quashed and set aside.

(iii) The matter is remanded back to the Assistant Registrar, Co-operative Societies, Nagpur, for deciding the same afresh, after hearing both the parties.

(iv) Needless to mention here that, in the meantime, the respondent-bank may consider a proposal of the petitioner for one time settlement and while doing so, the bank should not consider the matter pending before the Assistant Registrar, Co-operative Societies, Nagpur, as impediment in taking the decision on the proposal of one time settlement.

[ANIL S. KILOR, J.]