



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

Writ Petition (WP) No. 8204 of 2022

Mrs. Sita Wd/o Chaitendra Katre and others

Versus

Janta Sahakari Bank Limited 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 Ghulam Abbas Qubbawala, Advocate for the petitioners.
Shri V.R.Borkar, Advocate for the respondent no.1.

CORAM : ANIL S. KILOR, J.

DATED : 18th DECEMBER, 2023.

Heard.

2. The recovery certificate issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (in short hereinafter referred as "Act, 1960") on 21st June, 2022, is under challenge in this writ petition.

3. The challenge is raised on the ground that the Assistant Registrar proceeded against a deceased person i.e. Shri Chaitendra Dulichand Katre who was the non-applicant no.3 in the recovery proceeding. It is submitted that though the notice issued through post, the envelop received back with an endorsement that the receiver is deceased, the Assistant Registrar recorded the observation that the non-applicant no.3 was served and proceeded with the matter to issue a recovery certificate.

4. The present petition is filed by the legal heirs of non-applicant No.3 Chaitanya Dulichand Katre. The

respondents are not disputing the fact that on the date when the proceeding was filed under Section 101 of the Act, 1960 by the respondent no.1 and the notices were issued to the non-applicant no.3, he was not alive.

5. In that view of the matter, I have no hesitation to hold that the Assistant Registrar, Gondia committed an error to initiate the proceeding against a deceased person.

6. In the circumstances, the impugned recovery certificate order under Section 101 of the Act, 1960 vitiates. Accordingly, I pass the following order.

- i. Writ petition is partly allowed;
- ii. The order dated 21st June, 2022 passed under Section 101 of Act, 1960 read with Rule 86(f) of the Rules is hereby quashed and set aside.
- iii. The matter is remanded back to the Assistant Registrar, Co-operative Society, Gondia to decide the same after giving opportunity to the legal heirs of non-applicant Chaitanya Dhulichand Katre i.e. the petitioners.

[ANIL S. KILOR, J.]