

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

WRIT PETITION (WP) NO.7142 /2018

- 1) Prabhakar S/o Pandurang Channe,
Aged about 71 Years, Occupation –
Nil, (Ex-President of Chandrapur
Janata Nagari Sahkari Pat-Sanstha), R/o
Pathanpura, Jodh Deoul Square,
Chandrapur-442402, Tahsil and
District – Chandrapur (Maharashtra)
- 2) Subhash S/o Pandurang Tekam,
age about 42 Years, Occupation –
Business (Ex-Director of Chandrapur
Janata Nagari Sahkari Pat-Sanstha),
R/o Hiwarpuri Ward, Near Pathanpura
Post Office, Tahsil and District –
Chandrapur.
- 3) Shri Laxman s/o Rodbaji Chide,
age about 65 Years, Occ. – Retired,
R/o Near Ayappa Temple, Postal
Colony, Durgapur, Tahsil and District -
Chandrapur.
- 4) Smt. Lalitabai P. Kamble,
Aged about 60 Years, Occ. – R.D.
Agent, R/o Near Ramdand Sawari
Banglow, Milind Nagar, Near Bauddha
Vihar, Pathanpura Ward, Tah. & Dist.
Chandrapur
- 5) Shri Vijay Kavduji Urkunde,
Aged abt 40 Yrs, Occ. Painter/RTO

Agent, R/o Behind Bauddha Vihar,
Gopalpuri Ward, Tahsil and District -
Chandrapur.

- 6) Shankar Ramaji Garpalliwar,
Aged about 45 Years, Occ. – Business,
R/o Bhangaram Ward, Near Mata
Mandir, Bhivapur, Tahsil and District -
Chandrapur.
- 7) Shri Nitin Sudhakar Akojwar,
Aged about 40 Years, Occ. Painter, R/o
Near Tagore Vyayam Shala, Vitthal
Mandir Ward, Tah. & Dist.
Chandrapur.

.... Petitioner(s)

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- 1) Shri Ajay Dadaji Tembhurkar,
Aged about 40 Years, R/o Pathanpura,
Kisan Vasahat, Sahare Wadi, Tahsil and
District – Chandrapur (Maharashtra)
- 2) Shri Bandu Kisan Bankar,
Aged about 35 Years, R/o Pathanpura,
Kisan Vasahat, Sahare Wadi, Tahsil and
District – Chandrapur (Maharashtra)
- 3) Sau. Chandrakalabai w/o Prabhakar
Chahare,
Aged about 75 Years, R/o Pathanpura,
Behind Mata Temple, Chandrapur,
Tahsil and District – Chandrapur
(Maharashtra)
- 4) Sau Mangla Raju Divte,

Aged about 42 Years, R/o Lalpeth
Mana, Matanagar Ward, Chandrapur,
Tahsil and District – Chandrapur
(Maharashtra)

- 5) Sau Manisha w/o Santosh Nile,
Aged about 38 Years, Occ. Housewife,
R/o Pathanpura, Near Mata Temple,
Chandrapur, Tah. & Dist. Chandrapur.
- 6) Sau. Minatai Ashokrao Choudhary,
Aged about 50 Years, R/o Pathanpura,
Behind Mata Temple, Chandrapur,
Tahsil and District – Chandrapur.
- 7) Sau Rekha Anil Chahare,
Aged about 35 Years, Occ. Housewife,
R/o Pathanpura, Near Mata Temple,
Chandrapur, Tah. & Dist. Chandrapur
- 8) Sau Shobha Sureshrao Bankar,
Aged about 52 Years, R/o Pathanpura,
Behind Mata Temple, Chandrapur,
Tahsil and District – Chandrapur
(Maharashtra)
- 9) Sau. Suman Dadaji Tembhurkar,
(since Dead) Through Legal Heirs
9a) Sanjay Dadaji Tembhurkar,
Age about 50 years,
9b) Ajay Dadaji Tembhurkar,
Age about 46 years,
9c) Sau Kiran Prabhakar Bankar,
Age about 45 years,
All R/o Pathanpura, Behind Mata
Temple, Chandrapur, Tahsil and
District – Chandrapur.

... Respondent(s)

Shri Pratik Patel, Adv. h/f Shri V.R. Kinkhede, Advocate for the
Petitioner/s

Shri A.A. Dhawas and Shri R.S. Kalangiwale, Advocates for the
respondents

CORAM : ANIL S. KILOR, J.
DATED : 17.07.2023

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith. Heard finally by consent by the parties.
3. In this writ petition, the order passed by the District Consumer Dispute Redressal Forum, Chandrapur dated 19.07.2018, is under challenge, whereby the petitioners are directed to pay personally or jointly Rs.92,770/- to the respondent No.5/complainant from the date of the filing of the complaint along with the interest @ 9% per annum. The learned District Consumer Dispute Redressal Forum has also granted Rs.10,000/- as as compensation towards mental harassment and Rs.5,000/- as cost.

4. A Preliminary objection is raised by the respondents about maintainability of the present petition in view of a remedy by way of appeal is provided against the impugned order. The objection needs to be rejected at the threshold for the reason that, this Court has got satisfied on perusal of the record that the directions issued by the District Consumer Dispute Redressal Forum against the petitioners, are without jurisdiction.

5. It is a settled law that there is no complete bar to entertain a Writ Petition under Articles 226 and 227 of the Constitution of India even if an alternate remedy is available, on a satisfaction of the Court that the order impugned is without jurisdiction.

6. In the present matter, admittedly, the complaint was filed against the Chandrapur Janta Nagari Sahkari Pat-Sanstha and the petitioners are the Directors of the said Pat-Sanstha. Nowhere in the complaint or in the impugned order there are observations that, the amount deposited by the complainant in the said Pat-Sanstha, was received by the petitioners or it was transferred subsequently, in personal accounts of the petitioners.

7. The learned District Consumer Dispute Redressal Forum has not recorded any reason or finding, how the petitioners are liable to pay the amount of Rs.92,770/- personally or jointly, particularly when the amount was paid to the Pat-sanstha. In absence of any such finding, the directions issued to the petitioners to pay Rs.92,770/- personally or jointly, are contrary to law.

8. The Division Bench of this Court in the case of ***Mandatai Sambhaji Pawar & anr. Vs. State of Maharashtra & ors.*** reported in 2012 (3) Bom. C.R. 843, has held that, a corporation or a company is a separate legal entity and its directors are not liable for the liabilities of the company. No doubt that in the appropriate cases, the Courts have invented and applied the doctrine of lifting corporate veil and by doing so, passed orders against the directors of the company. When and how the corporate veil is to be lifted is a matter, which would be required to be decided on the facts of each case.

9. The said principle would equally applicable to the co-operative society, where the members of the society seek the

direction or the order against the members of the managing committee.

10. In the circumstances, in absence of any finding recorded by the District Consumer Dispute Redressal Forum against the petitioners, pointing out how the petitioners are liable to pay the amount personally or jointly to the complainant, such directions are erroneous and liable to be quashed and set aside. Accordingly, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The impugned order dated 19.07.2018 passed by District Consumer Dispute Redressal Forum, Chandrapur, is hereby quashed and set aside, to the extent of the petitioners.
- (iii) It is made clear that this Court has not dealt with the legality of the order against the Chandrapur Janta Nagari Sahkari Pat-Sanstha, against whom the respondent No.5/complainant may proceed for recovery of the said amount.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]