



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

25 WRIT PETITION NO. 2993 OF 2024

DATTATRAY TUKARAM POPALGHAT AND ANOTHER
VERSUS
THE DIVISIONAL JOINT REGISTRAR CO OPERATIVE
SOCIETIES AND OTHERS

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Advocate for the Petitioner : Mr. Shinde Dhananjay M.
AGP for Respondent/s-State : Mrs. A. S. Mantri.
Advocate for Respondent No.4 : Mr. Ashish P. Deshmukh.

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CORAM : S. G. MEHARE, J.
DATE : 02.05.2024

PER COURT :-

1. Heard the learned counsel for the petitioners, learned AGP for the respondents/State and learned counsel for the contesting respondent.

2. The contesting respondent filed the complaint before the Registrar, Money Lending, against the petitioners, alleging that they do illegal money lending. Many old bonds and sale deeds were recovered from his house search. The inquiry report was submitted to the Registrar (Money Lending). Both parties contested the matter. Respondent No.2/District Registrar Money Lending believed the material and declared the transaction of the petitioners with the contesting respondent as illegal money lending. Against the said order, the petitioners

have preferred the appeal before respondent No.1. He prayed for the stay. However, he declined to grant the stay. Hence, this writ petition.

3. Learned counsel for the petitioners submits that the inquiry report was supporting the petitioners. Bare recovery of the bail bonds that were never used and old sale deeds of more than 15 years are not sufficient to conclude that a person is doing illegal money lending. However, respondent No.1, without assigning any appropriate reason, rejected the prayer for the stay of respondent No.2 till the decision of the appeal.

4. Learned counsel for contesting respondent has raised the objection that against the impugned order, revision under Section 9 of the Maharashtra Money Lending (Regulation) Act does not lie. Therefore, the revision was not tenable. He has referred to the impugned order and pointed out that a large number of bonds and sale deeds have been recovered from the custody of petitioners. Respondent No.2 has correctly concluded that it was a money-lending transaction. The contesting respondents are entitled to restore the possession. Respondent No.1 has correctly held that it is no case of stay. Therefore, on merit, the petition is also liable to be dismissed.

5. Reading Section 9 of the Maharashtra Money Lending (Regulation) Act, the Court is not convinced that the interim order is revisable under that Section.

6. It appears that the unused bonds and sale deeds, which were old more than 15 years were recovered from the custody of the applicant. The inquiry report favours the petitioners. The question “whether the material collected establishes the transaction was money lending may fall for consideration before the Appellate Authority/respondent No.1. *Prima facie* it appears that there are many issues involved in the appeal to be decided on merit. The mutation entries stand in the name of the petitioners, who are in possession of the disputed lands. The Civil Court has protected his possession by way of interim injunction. Considering the facts of the case and *prima facie* issues involved in this case, the Court is of the view that the petitioners have a good case for staying to the impugned order of respondent No.2 till the appeal is concluded. Hence, the following order :

ORDER

- (i) Writ petition stands allowed.

- (ii) The impugned order of respondent No.1, dated 31.01.2024, below Exh.A, stands quashed and set aside.
- (iii) The application for stay to the execution of the impugned order is allowed till the conclusion of the appeal.
- (iv) There shall be a stay to the execution and implementation of the impugned order of respondent No.2 till the appeal is concluded.
- (v) No order as to costs.
- (vi) Respondent No.1 may expedite the disposal of the appeal.

(S. G. MEHARE, J.)

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vmk/-