

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7059 OF 2024

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Milind Ramesh Wani

... Petitioner

V/s.

Swami Vivekanand Nagari Sahakari

Patsanstha Maryadit & Ors.

... Respondents

Mr. Sidheshwar Biradar for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : JULY 1, 2024

P.C.:

1. By this writ petition, the petitioner is challenging orders passed by the Cooperative Court and Cooperative Appellate Court rejecting the petitioner's dispute in exercise of power analogues to Order 7 Rule 11(d) of the Civil Procedure Code, 1908 on the ground that the dispute under section 91 of the Maharashtra Cooperative Societies Act, 1960 virtually challenging certificate issued under section 101 of the Maharashtra Cooperative Societies Act, 1960 was not maintainable.

2. The Courts below have recorded a finding that the petitioner stood guarantor for loan of Rs.20 Lakh, however, he denies that such loan was secured by him as a guarantor. However, he disputes the fact that additional loan of Rs.10 Lakh was secured by him as a guarantor.

3. It is also not in dispute that the Registrar in exercise of power under section 101 of the Maharashtra Cooperative Societies Act, 1908 issued certificate under section 101 in relation to loan of Rs.20 Lakh of which the petitioner was guarantor. The certificate was issued on 1 November 2011.
4. The petitioner has filed dispute under section 91 of the Maharashtra Cooperative Societies Act, 1960 in relation to loan of Rs.20 Lakh seeking reliefs inconsistent with the contents of section 101 of the said Act.
5. It is well settled that in view of Division Bench judgment of this Court in case of **Basaveshwar Cooperative Credit Society Ltd. vs. Jayant Shivpal Banchhode** reported in 2009(1) ALL MR 908 : 2009(1) Mah.L.R. 173 that a present party to the certificate under section 101 of the Maharashtra Cooperative Societies Act, 1960 cannot challenge such certificate by invoking section 91 of said Act. Therefore, the Courts below have rightly rejected the application as not maintainable.
6. Since the view adopted by the Courts below is possible view, no interference is called for. However, subject to limitation and subject to compliance of section 154(2a) of the Maharashtra Cooperative Societies Act, 1960, it shall be open for the petitioner to challenge 101 certificate if permissible in accordance with law.
7. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)