



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4900 OF 2021

(Smt. Urmilabai wd/o Maroti Kale & Ors. Vs. The Registrar General and Additional Commissioner & Special Registrar, Co-operative Society, Pune & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri P.P. Deshmukh, Counsel for the petitioners.
Ms K. Marpakwar, A.G.P. for respondent nos. 1 to 4.
Shri S.D. Abhyankar, Counsel for respondent no.5.
Shri V.N. Patre, Counsel for respondent no.6.

CORAM : ANIL L. PANSARE, J.
AUGUST 12, 2024

Having heard both sides at length, what transpires is that the order impugned has been passed by Dr. P.L. Khandagade, Registrar General of Money Lending and Additional Commissioner and Special Registrar, Co-operative Society, Maharashtra State, Pune. The order has been passed on 25/8/2021.

2] My attention is invited to office order dated 4/3/2021 by which Dr. P.L. Khandagade was relieved from the post of Additional Commissioner and Special Registrar, Co-operative Society, Maharashtra State, Pune.

3] The contention of the learned Counsel for the petitioners is that Dr. Khandagade had heard the matter in February – 2021, but has passed the

order after he was relieved of the post. Thus, according to him, Dr. Khandage had no jurisdiction to pass the order.

4] The learned Counsel has relied upon the judgment of the Division Bench of this Court in the case of *Rukhana Associates, Mumbai Vs. E-Square Leisure Pvt. Ltd., Mumbai* [2010(5) Mh.L.J. 202], wherein the Division Bench in identical matter has held that the judgment can be pronounced by the Judge, who has heard the oral arguments. The Court noted the fact that the Judge therein, who heard the oral arguments, was transferred before pronouncing the judgment. The Court then proceeds to hold that in such a situation, the new Judge has no other option but to hear the oral arguments afresh and only then pronounce the judgment. The Court has then clarified that merely because the parties have already filed written submissions or gist of oral arguments will not be sufficient for the subsequent Judge to pronounce the judgment without giving opportunity of oral hearing.

5] In context with above, the learned A.G.P. was directed to take instructions as to whether Dr. Khandagade was holding the post of Registrar General when he passed order. The learned A.G.P. submits that he was not.

6] In the light of above, the matter having been covered by the judgment cited by the learned Counsel for the petitioners, the impugned order is unsustainable.

7] Accordingly, order dated 25/8/2021 passed by respondent no.1 is quashed and set aside. The revision is remanded back to the Registrar General concerned to decide it afresh.

8] At this stage, the learned Counsel for the petitioners submits that the Registrar General is not entertaining the revision in view of order passed by the Co-ordinate Bench of this Court, at Aurangabad Bench, in the case of *Parbata Jija Pote (Died) through LRs Vs. State of Maharashtra & Ors. [Writ Petition No. 14389/2019 decided on 24/4/2024]*, wherein the Court took a view that no revision would lie under Section 9 of the Maharashtra Money Lending (Regulation) Act, 2014, once order in appeal has been passed.

9] The learned Counsel for the respondents as well as the learned A.G.P. submit that the view taken by the Co-ordinate Bench is *per incuriam* inasmuch as the judgments passed by the Co-ordinate Bench, prior to the aforesaid judgment, was not placed before the Court. The learned Counsels have referred to the judgments of this Court in the case of

Vishwanath Marotrao Ganjre Vs. Divisional Joint Registrar, Co-operative Society, Amravati & Ors. [Writ Petition No. 5362/2017 decided on 28/8/2018] so also in the case of *Taherkhan Pathan Vs. The Divisional Joint Registrar & Ors. [Writ Petition No. 3606/2018 decided on 6/1/2020]*, wherein a consistent view has been taken that revisional remedy is available to the aggrieved person in terms of Section 9 of the Act of 2014; rather, in both the judgments, this Court took a view that Writ Petition is not maintainable because revisional remedy is available to the aggrieved person.

10] This being the position, the learned Counsel for the respondents are fully justified in contending that the judgment passed in *Parbata Jija Pote (Died) through LRs (supra)* is *per incuriam*. The law of precedents would bound the Co-ordinate Bench by the judgments passed earlier.

11] In that view of the matter, the law laid down by the Co-ordinate Bench in *Vishwanath Marotrao Ganjre (supra)* and *Taherkhan Pathan Vs. The Divisional Joint Registrar & Ors. (supra)* would hold the field. Respondent no.1 will act accordingly and proceed to decide the revisions in accordance with law.

12] The parties shall appear before the Registrar General on 2/9/2024.

13] Interim relief shall continue till 2/9/2024. Thereafter, the Registrar General will consider the request, if any, for continuation of interim relief and shall consider the same on its own merits. All points are kept open.

14] The Writ Petition is disposed of in above terms.

JUDGE

Sumit