



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

Writ Petition (WP) No. 6481 of 2017

**Gopaldas S/o Nandkishorji Rathi and another
Versus
Divisional Joint Registrar (C.S), Amravati 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 K.P.Mahalle, Advocate for the petitioner.
Shri A.J.Gohokar, AGP for the respondent nos. 1 and 2.
Shri A.M.Ghare, Advocate for the respondent no.3.

**CORAM : ANIL S. KILOR, J.
DATED : 8th FEBRUARY, 2024.**

Heard.

2. The issue involved in the present writ petition is whether the transaction of sale of land in question is a money lending transaction and whether it is covered under Sections 17 and 18 of the Maharashtra Money Lending (Regulation) Act, 2014 (hereinafter referred as 'Act, 2014').

3. The petitioner no.1 purchased the land admeasuring 0.40 R out of 1.29 R from field survey no. 734 Mouza Walgaon, District Amravati from one

Rajendra Rathi vide sale deed dated 18th September, 2000.

4. The respondent no.3 after 15 years of the said transaction on 20th March, 2015 by way of an application under Sections 16 and 17 of the Act of 2014 claimed that, at the relevant time he had no sufficient amount with him to purchase the land in question and therefore the petitioners were asked to purchase the land on his behalf.

5. The said application came to be rejected vide order dated 8th September, 2016 passed by the District Deputy Registrar, holding that the transaction in question cannot be termed as money lending transaction.

6. The said order passed by the District Deputy Registrar dated 8th September, 2016 was the subject matter of the appeal before the Divisional Joint Registrar Co-operative Society who set aside the order of the District Deputy Registrar and remanded the matter for fresh inquiry vide impugned order dated 29th August, 2017.

7. The aforesaid order is based on a report of Taluka Deputy Registrar, Cooperative Society, Taluka Amravati treating the transaction as money lending transaction.

8. However, order of the District Deputy Registrar is based on the language of the Section 18 to arrive at a conclusion whether the transaction involved in this matter is a money lending transaction or not.

9. Admittedly, this exercise has not been done by the Divisional Joint Registrar and there are no findings recorded in the impugned order whether this transaction would be covered under Sections 17 or 18 of the Act of 2014.

10. Shri Ghare, learned counsel for the respondent no.3 while opposing the writ petition has argued that neither the definition of the debtor as mentioned in Section 2(7) of the Act of 2014 nor the language of Sections 17 and 18 of the Act of 2014 indicate anywhere that for the purpose of money lending the property should be that of the debtor.

11. However, after going through the impugned order, there is no such findings recorded by the Divisional Joint Registrar and it appears that this argument was not even made before the Divisional Joint Registrar on behalf of the respondent no.3.

12. The question involved in the present matter, whether the transaction in question is a money lending transaction goes to the root of the jurisdiction under the Maharashtra Money Lending (Regulation) Act, 2014.

13. In that view of the matter, the Divisional Joint Registrar ought to have gone into the said issue instead of merely relying upon the observations made by the Taluka District Deputy Registrar's report that it is a money lending transaction, is not just and proper. Hence, I am of the opinion that this matter needs to be remanded back to the Divisional Joint Registrar to decide the same after hearing both the parties. Accordingly, I pass the following order.

- i. The writ petition is partly allowed.
- ii. The impugned order dated 29th August, 2017 passed by the Divisional Joint Registrar, Amravati is hereby quashed and set aside;
- iii. The parties are directed to appear before the Divisional Joint Registrar, Amravati on **26th February, 2024** at 11 a.m. Thereupon, the Divisional Joint Registrar, Amravati to decide the appeal within six months from the date of appearance of the parties after hearing both the parties.

[ANIL S. KILOR, J.]