



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO.6743/2019

Mohd. Mushirul Haque Mohd. Mohibul Haque .Vs. Divisional Jt. Registrar,
 Cooperative Societies, Amravati Divsiion and Others.

AND
WRIT PETITION NO.2986/2019

Sau. Aasiya Siddique w/o Mohd. Mushirul Haque .Vs. Divisional Jt. Registrar,
 Cooperative Societies, Amravati Divsiion and Others.

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

Court's or Judge's orders

Mr. V. K. Paliwal, Advocate for petitioner.
 Mrs. S. S. Dhote, A.G.P. for respondent Nos. 1 and 2.
 Mr. P. K. Raulkar, Advocate for respondent No.3.

CORAM : ANIL L. PANSARE, J.
DATE : 23.07.2024

Writ Petition No.2986/2019

Heard.

2. Learned counsel for the respondent No.3-Society has invited my attention to order date 03.12.2019, which reads thus:

“The challenge raised in the present writ petition is to the order passed by the Divisional Joint Registrar refusing to condone delay in filing proceedings for challenging the recovery certificate dated 30.03.2007 issued under Section 101 of the Maharashtra Cooperative Societies Act, 1960 (for short ‘the said Act’). According to the petitioner the amount borrowed by her was repaid and the loan account was cleared on 11.06.2004. Despite that the respondent no.3 – Society initiated proceedings under Section 101 of the said Act. It is also the contention of the petitioner that she was not noticed in the proceedings under Section 101 of the said Act.

On behalf of the Society reply has been filed in which it has been stated that after repaying the earlier loan

amount the petitioner had sought renewal of the cash credit limit to the extent of Rs.2,50,000/-. At the request of the petitioner on 10.06.2004 the loan account was renewed and cash credit limit of Rs.2,50,000/- was sanctioned. Since the said amount was outstanding, proceedings under Section 101 of the said Act were initiated. It is thus submitted that considering the huge delay in filing the revision application, the Divisional Joint Registrar was justified in not condoning the delay.

Prima facie it is seen that the petitioner seeks to rely upon the statement of account which contains entries up to 11.06.2004. On the other hand, the Society seeks to rely upon renewal of the cash credit limit on 10.06.2004 and documents executed in that regard.

To consider the bonafides of the petitioner while examining her challenge, she is directed to deposit an amount of Rs.2,50,000/- in this Court within a period of six weeks from today. The respondent no.3 – Society shall produce for perusal all original documents on the basis of which it has sought to recover the amount due from the petitioner. The ad-interim order granted on 15.04.2019 is accordingly modified. Needless to state that if amount of Rs.2,50,000/- is not deposited within a period of six weeks, the Society would be free to execute recovery certificate. Stand over to 14.01.2020.”

3. Counsel for the respondent No.3 further submits that the petitioner has not deposited the amount of Rs.2,50,000/- and, therefore, the respondent No.3 has taken symbolic possession of the property bearing Khasra No.206/2, admeasuring 230.9 Sq. Mtr. He tendered across the bar a revenue entry to that effect. Copy of the property card is taken on record and marked “X” for identification. The revenue entry, however, is dated 03.09.2019. Thus, it appears that prior to passing order dated 03.12.2019, the society has executed

recovery certificate but has not disclosed the said vital fact to the Court.

4. The society shall justify such a stand else costs will be imposed for not disclosing the true status of the recovery certificate.

Stand over to 01.08.2024.

Writ Petition No. 6743/2019

Heard.

2. Counsel for the petitioner submits that the petitioner is husband of the Ms Aasiya Siddique, petitioner in connected writ petition.

3. The challenge is to the order dated 17.06.2019 passed by respondent No.1. The petitioner filed revision under Section 154 of the Maharashtra Cooperative Societies Act, 1960, against the recovery certificate issued by respondent No.2 under Section 101 of the Act of 1960.

4. Respondent No.1 has rejected the application on the ground that the petitioner has not deposited the 50% of the total recoverable amount in terms of Section 154 (2-A) of the Act of 1960. Counsel for the petitioner failed to show that this amount was deposited and, therefore, no fault could be attributed to the authority below in rejecting the revision.

5. The petition is accordingly dismissed.

(Anil L. Pansare, J.)