



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

WRIT PETITION NO.8078 OF 2017

Supda Rambhau Ingle and another .Vs. Jt. Registrar, Cooperative Society, Amravati
Division, 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 M.V. Amale, Advocate for petitioners.

Shri Alap Palshikar, A.G.P. for respondent Nos.1 and 2/State.

Shri N.D. Borkar, Advocate for respondent No.3.

CORAM : ANIL S. KILOR, J.

DATED : 24/04/2024

1. The order passed by the District Assistant Registrar, Buldhana dated 18.03.2017 under Section 18 of the Maharashtra Money Lending (Regulation) Act, 2014 (hereinafter referred to as "Act of 2014") holding that, the transaction between the petitioners and the respondent No.3 is of money lending and thereby, the sale deed was cancelled and directed the petitioners to return back the land to the respondent No.3.

2. The learned counsel for the petitioners argues that, though the District Registrar relied upon the affidavits filed by the witnesses of the respondent No.3 and though the application was moved by the petitioners for permission to cross-examine them and which was allowed, no

opportunity to cross-examine was granted before passing the impugned order.

3. Considering the said submission made by the learned counsel for the petitioners, the original record was called, for perusal. After persual of the record, it is evident that, though the application of the petitioners was allowed to cross-examine the witnesses of the respondent No.3, the matter was never fixed for cross-examination by the petitioners.

4. It is further evident that, the audio recording was taken into consideration which was submitted without complying the requirement of the provisions of Section 65(B) of the Indian Evidence Act, 1872. Consequently, the order passed by the Divisional Joint Registrar in Appeal, dated 11.09.2017 also vitiates.

5. In the circumstances, I am of the opinion that, without going into the merits of the matter, it would be appropriate in the interest of justice to remand the matter back to the District Registrar to decide the same afresh after granting opportunity to the petitioners to cross-examine the witnesses of the respondent No.3. Accordingly, I pass the following order :

- i) The writ petition is **partly allowed**.
- ii) The order dated 18.03.2017 passed by the District Registrar in Case No.155 of 2015 and the order dated 11.09.2017 passed by the Divisional Joint Registrar in Case No.17 of 2017, are hereby quashed and set aside.
- iii) The matter is remanded back to the District Registrar to decide the same afresh after giving sufficient opportunity to both the parties to lead the evidence and to cross-examine.
- iv) The parties are directed to remain present before the District Registrar on **08.05.2024** at 12.00 noon. Thereupon, the District Registrar is directed to decide the matter afresh within **six months** from the date of appearance of the parties.
- v) All the points are kept open.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE