



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

901 WRIT PETITION NO. 4410 OF 2022

Ghanshyam Eknath Ghobale
Age 69 years, Occu. Retired
R/o. Followers Quarter, Near Hospital,
Ambajogai, Tq. Ambajogai, Dist. Beed

1-A) Asha w/o Ghanshyam Ghobale,
Age : 66 years, Occu. Household,
R/o Followers Line, Near Hospital,
Ambajogai, Tq. Ambajogai, Dist. Beed

1-B) Vivek s/o Ghanshyam Ghobale,
Age : 36 years, Occu. Education,
R/o Followers Line, Near Hospital,
Ambajogai, Tq. Ambajogai, Dist. Beed
At Present Doctor Colony Side,
Pathan Nagar, Near Chand Tara Masjid,
Latur, Tq. And Dist. Latur.

1-C) Vishal s/o Ghanshyam Ghobale,
Age : 36 years, Occu : Advocate
R/o Followers Line, Near Hospital,
Ambajogai, Tq. Ambajogai, dist. Beed

1-D) Vidhya w/o Suryakant Late,
Age : 36 years, Occu. Household,
R/o Followers Line, Near Hospital,
Ambajogai, Tq. Ambajogai, Dist. Beed
At present Sakla Plot, Parbhani,
Tq. and Dist. Parbhani

...Petitioners

VERSUS

1. The State Of Maharashtra
Through Its Principal Secretary
Co-operative Department,
Mantralaya, Mumbai-32
2. The District Deputy Registrar,
Co-operative Societies, Beed,

and Registrar of Money Lending
Beed, Dist. Beed

3. Shaikh Gulab S/o. Shaikh Babu
Age: 67 years, Occu : Pensuiner
R/o Chennai, Tq. Ambajogai, Dist. Beed

4. Ankush S/o. Laxmanrao Jadhav,
Age : 37 years, Occ : Agri,
R/o Hanuman Nagar, Ambajogai,
Tq. Ambajogai, Dist. Beed
At Present R/o Near Ganpati Mandir,
Shikshak colony, Majalgaon,
Tq. Majalgaon, dist. Beed

5. Balasaheb S/o Rajabhau Shep,
Age : 44 years, Occu : Agri,
R/o Shepwadi, Tq. Ambajogai, Dist. Beed

...Respondents

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Mr. Rahul D. Khadap, Advocate for the Petitioner
Mr. V. S. Badakh AGP for Respondent Nos. 1 & 2.
Mr. Shrinivas A. Ambad, Advocate for Respondent No.3

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CORAM : ROHIT W. JOSHI, J.
DATE : 21st AUGUST, 2025

ORAL JUDGEMENT :

1. The present petition takes exception to orders dated 20.08.2021 and 28.12.2021 passed by respondent no.2-District Deputy Registrar of Co-operative Societies, Beed and Registrar of Money Lending, Beed rejecting applications filed by the present petitioner for rejection of application filed by respondent no.3 under Section 18 of the Maharashtra Money Lending (Regulation) Act, 2014 (hereinafter referred to as "the said Act" for the purpose of brevity) and for stay of proceedings in the said application on the ground that respondent no.3

has filed a substantive civil suit being Special Civil Suit No.17 of 2019 on the same cause of action.

2. The facts of the present case are that respondent no.3 has executed three sale deeds in favour of the petitioner bearing Registration Nos.2741/2011, dated 06.06.2011, 2944/11 dated 15.06.2011 and 1706/2012 dated 25.04.2012. It is the contention of respondent no.3 that the said sale deeds are not with respect to genuine transactions of sale but the same are in the nature of security for loan advanced by petitioner to respondent no.3. Respondent No.3 has filed a Civil Suit being Special Civil Suit No.17 of 2019 against the petitioner seeking declaration of ownership with respect to properties sold under the aforesaid three sale deeds and a further declaration that the said sale deeds were executed towards security of loan advanced by the petitioner to respondent no.3 as also for cancellation of the sale deeds. The said Civil Suit is pending. Although the said Civil Suit is pending, respondent no.3 has filed an application before respondent no.2 under Section 18 of the said Act on 15.02.2021. Respondent no.3 has sought relief of cancellation of aforesaid three sale deeds in the said proceedings. The present petitioner filed two applications in the said proceedings on 20.12.2021, one for stay of proceedings in view of pendency of earlier Civil Suit and second for rejection of the proceedings in view of filing of earlier Civil Suit. Both these

applications are rejected by respondent no.2 vide separate orders dated 20.12.2021. The present petition is filed challenging the said orders.

3. The learned Advocate for the petitioner contends that since a substantive Civil Suit is already filed, the subsequent application filed under Section 18 of the Act challenging the sale deeds which are already challenged in the Civil Suit was not maintainable. He contends that the pleadings in the Civil Suit and averments in the application are identical. He contends that respondent no.3 cannot avail of two separate remedies with respect to same relief and same cause of action. He therefore contends that respondent no.2 ought to have dismissed the application preferred by respondent no.3 or at best he should have stayed the proceedings till adjudication of the Civil Suit. He states that the Civil Suit is admittedly filed prior in point of time.

4. The learned Advocate for respondent no.3 opposes the submissions stating that the scope of proceedings in an application under Section 18 of the Act and a Civil Suit is different. He further contends that the provisions of Order 7 Rule 11 and Section 10 of the Code of Civil Procedure under which the applications were filed are not applicable to the proceedings before respondent no.2. He also raises an objection that the petitioner has remedy of filing revision under Section 9 of the said Act and therefore on this count also the petition should

not be entertained.

5. As regards the preliminary objection, it must be stated that although remedy of filing revision is available to the petitioner, alternate remedy by itself does not bar jurisdiction of this Court in entertaining a petition. Alternate remedy is a self imposed restriction.

6. In the facts of the present case it is apparent that respondent no.3 has filed Civil Suit challenging the three sale deeds and while the said suit is still pending, he has filed another proceeding under Section 18 of the Act on 15.02.2021. Perusal of the Civil Suit and application under Section 18 demonstrate that plaint averments and the contents of the application are almost the same. The cause of action in both the proceedings is same and the relief claimed is also the same. It is well settled that a litigant cannot take recourse to two separate remedies with respect to same cause.

7. In view of the above, the subsequent proceeding is not maintainable. There cannot be any dispute with respect to fact that the Civil Suit is filed prior in point of time and that plaint averments, contents of application are almost identical and the reliefs claimed are also the same. The learned Advocate for the petitioner has rightly placed reliance on judgment of this Court in the matter of ***Bhanudas @ Suryabhan Versus State of Maharashtra*** reported in ***2022 Livelaw***

(Bom) 446, wherein it is held that a litigant cannot take recourse to two parallel proceedings with respect to same cause of action. It needs to be stated that the said judgment also deals with situation where a Civil Suit was filed and application under Section 18 of the Act was filed by the persons who had sold the property and alleged that the same was by way of security for a money lending transaction. It must however be stated that in the said case before the proceeding was decided by the Competent Authority under the Act, the Civil Suit was already dismissed, and the authority passed order contrary to the judgment and decree passed by the Civil Court. In the present case, the suit and application under Section 18 are pending. Nonetheless this Court has categorically held in paragraph 28 of the said judgment that availing two parallel remedies for the same cause of action is not permissible. This is a well settled proposition of law.

8. In view of the settled legal position that two parallel proceedings are not maintainable for same relief the objection raised by the petitioner goes to the root of authority of respondent no.2 to entertain application under Section 18 of the Act.

9. In view of the above, in the considered opinion of this Court, the subsequent application preferred by respondent no.3 under Section 18 of the Act is not maintainable.

10. As regards the objection pertaining to applicability of provisions of Section 10 and order 7 Rule 11 of the Civil Procedure Code, there is no point in harping on technicalities. Perusal of the prayer in the application under Order 7 Rule 11 clearly indicates that the petitioner had prayed for dismissal of the proceedings in view of filing of earlier Civil Suit which is still pending and has not withdrawn.

11. For the reasons mentioned above, the Writ Petition deserves to be allowed and is **allowed** accordingly.

12. Order dated 20.12.2021 passed by respondent no.2-District Deputy Registrar of Co-operative Societies and Registrar of Money Lending, Beed on application for dismissal of proceeding is quashed and set aside and application under Section 18 filed by respondent no.3 before respondent no.2 stands dismissed.

13. Since the application itself is dismissed the application for stay of proceedings filed under Section 10 is rendered infructuous.

14. Writ Petition is **disposed of** accordingly with no order as to costs.

[ROHIT W. JOSHI J.]