



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

959 WRIT PETITION NO. 4821 OF 2011

DEOGIRI NAGARI SAHAKARI BANK LTD

VERSUS

PRADEEP GOVINDRAO DESHPANDE AND ORS

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Advocate for Applicant : Mr. Kulkarni Ashutosh S.

Advocate for Respondent No.1 in WP : Mr. H. S. Adwant h/f. Mr. S.

V. Adwant

Advocate for Respondent No.2 in WP : Mr. R. B. Deshpande

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WITH

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CIVIL APPLICATION NO. 4819 OF 2025

IN

WP/4821/2011

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CORAM : ARUN R. PEDNEKER, J.

DATE : 03.09.2025

PER COURT:

1. Heard.

2. The learned counsel for the petitioner submits that the cooperative appellate court having come to the conclusion that the proceedings before the cooperative court were not maintainable ought not to have directed the learned trial judge to return the plaint to the complainant / disputant to file before the appropriate forum.

3. The learned counsel appearing for the petitioner has placed on record the Judgment of this court in the case of **Madhukar Mahadev Patil Vs. Sangli Zilla Madhyawarti Sahakari Bank Ltd., 2024 SCC OnLine Bom 2522** and submits that in view of

the law laid down therein the issue is squarely covered by paragraph no.33, which reads as under:

“33. There is no provision under the MCS Act, or the Rules framed thereunder empowering the Cooperative Court to return the dispute for presentation to the Court having jurisdiction. Having regard to the legal principles settled by this Court in the decision of Tarkude Hotels, I do not find any substance in the arguments made by the learned counsel for the petitioner that, since there is no bar to the applicability of Order VII Rule 10 of CPC to the proceedings before the Cooperative Court, this Court in the exercise of powers conferred under Article 227 of the Constitution of India, can order return of the dispute for presenting before the Civil Court.”

4. In view of the above, clause 2 of the impugned order is set aside. However, liberty is reserved to respondent no.1 to challenge the impugned certificate issued under Section 101 of the Maharashtra Cooperative Societies Act as is available in law. In the event, respondent no.1 seeks recourse to any proceedings to challenge the certificate issued under Section 101 of the Maharashtra Cooperative Societies Act as may be available in law then while computing the period of limitation the time taken in pursuing the present remedy be excluded in computing the period of limitation.

5. Rule is made absolute in above terms.

6. The writ petition stands disposed of accordingly.

7. In view of disposal of the writ petition, Civil Application No.4819 of 2025 also stands disposed of.

[ARUN R. PEDNEKER, J.]