2025:BHC-AUG:22309

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7979 OF 2012

Pratibha Mahila Sahakari Bank Ltd. ....Petitioner

VERSUS

Jalgaon Zilla Rajya Shaskiya Karmachari
Shakari Patpedhi, Ltd. & another .....Respondents

Mr. V. B. Patil, Advocate for the Petitioner.
Mr. A. D. Shinde, Advocate holding for MR. V. A. Pawar, Advocate for Respondent No. 1.
Mr. S. V. Adwant, Advocate for Respondent No. 2.

CORAM : R. M. JOSHI, J.
DATE : 12th AUGUST, 2025.

PER COURT :

1. This Petition takes exception to the judgment and order passed by the Co-operative Court in Dispute No. CC/J/339/2002 dated 03.03.2010 and confirmation of the said order in Appeal by Maharashtra State Cooperative Appellate Court, in Appeal No. 1/2011 by order dated 25.04.2012.

2. The facts which led to filing of this Petition are narrated in brief as under :-

Petitioner is the co-operative bank and is in banking business since long till 2003. On 27.02.2003, the Reserve Bank of

India cancelled banking licence of the Petitioner. The Commissioner under the Maharashtra Co-operative Societies Act (for short 'Societies Act') passed the order of liquidation of the bank on 04.03.2003.

3. Respondent No. 1 is a co-operative society and had deposited certain amount in fixed deposit with Petitioner/Bank to the extent of Rs. 8,00,000/-. It is claimed by the Petitioner that the Petitioner/Bank is insured with Respondent No. 2/Deposit Insurance Credit Guarantee Corporation (for short 'DICGC') and in terms of the said insured amount, a sum of Rs. 1,00,000/- is paid to the Petitioner and further claim is rejected. In the light of these facts, Respondent No. 1 filed dispute under Section 91 of the Societies Act. The Petitioner and Respondent No. 2 were made party Respondents in the said proceedings before the Co-operative Court. Written statement came to be filed by Petitioner taking exception to the tenability of the suit on the ground that Liquidator has been appointed and the Bank is not operational. In the written statement, however, no dispute has been made by the Petitioner in respect of the amount deposited by Respondent No 1 /society with Petitioner/Bank. It is also contended that a claim was made with DICGC for return of the amount and the total claim of Rs. 33,30,409.71/- was approved

and the investors were paid Rs. 1,00,000/- each and as such Respondent No. 1/Bank is entitled to Rs. 1,00,000/-.

4. Learned counsel for Petitioner and Respondent No. 2 submit that in the facts of the case, the Co-operative Court was not justified in allowing the dispute and directing payment of amount along with interest. It is their contention that the bank has gone under liquidation in the year 2003 on appointment of Liquidator on 04.03.2003 and prior thereto banking license of the Petitioner was cancelled on 27.02.2002. It is contended that after Liquidator was appointed, it was not open for the Co-operative Court to entertain the dispute. It is also claimed that over and above the amount of Rs. 1,00,000/-, Respondent No. 1 was not entitled for any other amount. Reference is made to the provisions of The Deposit Insurance And Credit Guarantee Corporation Act, 1961 (for short 'Act of 1961') and Regulations made thereunder. By referring to Section 21(2) of the Act read with Regulation 22, it is sought to be argued on behalf of Respondent No. 2 that the DICGC has a preferential right in the amounts recovered by the Liquidator. To support his submissions he has placed reliance on judgment of the Hon'ble Supreme Court in Civil Appeal No. 1035/2008 in case of Deposit Insurance & Credit

Guarantee Corporation vs. Ragupathi Raghavan & others and the judgment of Division Bench of Gujrat High Court in Letters Patent Appeal No. 1300/2010 and others and confirmation of the said order by the Hon'ble Supreme Court in Civil Appeal No. 14695/2015.

5. Learned counsel for Respondent No. 1 supported the impugned order. It is his contention that there is no embargo created for entertaining the dispute by the Co-operative Court with leave of Liquidator. Here in this case, no any embargo applies. It is argued that even if for the sake of argument it is accepted that Respondent No. 2 would have preferential right to receive the amount, the said fact or the provisions of the Act of 1961 would not create a bar for the Co-operative Court to entertain the dispute and to pass appropriate order. In response to the submission made by learned counsel for the Petitioner that the Co-operative Court has committed error in allowing the claim of Respondent No. 1, it is pointed out from the written statement that the Petitioner has never raised objection with regard to the entitlement of Respondent No. 1.

6. Though number of submissions are sought to be made on behalf of the Petitioner as well as Respondent No. 2, crux of their

submission is applicability of the Act of 1961 to the present case and the judgments of the Hon'ble Supreme Court and Gujrat High Court referred above. It would be relevant to take note of the judgment of the Hon'ble Supreme Court in Civil Appeal No. 1035/2008. What has been held by the Hon'ble Supreme Court therein after considering Section 21 of the Act of 1961 is that when the Corporation had paid to the depositors as per the insurance scheme under the Act, the Corporation gets a right under the said provisions to get money from the Official Liquidator. It is further observed that while repaying the said amount, there shall not be any other preferential creditor who would be getting any amount from the Official Liquidator till the amount payable under Section 21 of the Act is paid to the Corporation. Similar is the view taken by the Division Bench of Gujrat High Court in the Letters Patent Appeal referred above, which order came to be upheld by the Hon'ble Supreme Court.

7. The provisions of the Act of 1961 do not create any bar for the Co-operative Court to entertain a dispute under Section 91 of the Societies Act. Moreover, a bare perusal of Section 21 of the Act of 1961 only demonstrates that the Corporation would have a right to recovery of amount which was paid under the Insurance Guarantee

Scheme to the depositors and the Corporation would get preference over all creditors to receive such amount. As held by the Hon'ble Supreme Court that till the amount as payable under Section 21 of the Act of 1961 to the Corporation is paid, no other preferential creditor would be entitled to receive any money from the Official Liquidator.

8. The provisions of the Act of 1961 and the judgments referred above, lay down the position of law that the Corporation will get preferential right to recover the money over other creditors. That however does not mean to say that the dispute before the Co-operative Court cannot be entertained. Needless to say that the claim of preference to receive amount can be raised by Respondent No. 2 at the time of execution of the award/order passed by the Co-operative Court.

9. Insofar as the claim granted by the Co-operative Court is concerned, there is no dispute made by the Petitioner in the written statement about entitlement of Respondent No. 1 to the amount in question. Once no dispute is made in this regard, there was nothing left for determination by the Co-operative Court. In such

circumstances, order passed by the Co-operative Court. In such circumstances, order passed by the Co-operative Court and confirmed by the Appellate Court is in consonance with the law and in the facts of the case, for want of perversity, it deserves no interference.

10. In view of the above, Petition stands dismissed.

(R. M. JOSHI)
Judge

dyb