



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

**CIVIL APPLICATION NO. 445 OF 2024
IN WP/7044/2011**

Nandkishore Rameshwar Charkha .. Applicant

Versus

The State of Maharashtra and others .. Respondents

Mr. Uday V. Khonde, Advocate for the Applicant.

Mr. R. B. Dhaware, AGP for Respondent Nos. 1 and 2.

Mr. S. G. Dodya, Advocate for Respondent Nos. 3, 4 & 9.

CORAM : KISHORE C. SANT, J.

DATE : 01st OCTOBER, 2025.

PER COURT :-

. Heard learned advocates for the parties.

2. This application is for withdrawal of the amount deposited by the applicant in the office of this Court pursuant to earlier order dated 11.01.2013. It is the case of the applicant that, he never stood guarantee neither he is borrower of respondent No. 5 still proceeding under section 101 of the Maharashtra Co-operative Societies Act (for short "M.C.S. Act") was taken out by making him as a party. Therefore, the applicant had filed an application bearing Revision Application No. 25/2014 before the

learned Divisional Commissioner, Aurangabad. The learned Divisional Commissioner allowed the application and remanded the matter back to the learned Registrar, Co-operative Societies and set aside the order under section 101 of the M.C.S. Act to the extent of the applicant by order dated 27.05.2019. In the meantime, the applicant has approached this Court by filing writ petition No. 7044/2011 in which the order was passed directing the petitioner to deposit the amount. The petitioner has now filed this application stating that when he is not a party to the proceeding under section 101 of the M.C.S. Act and when there is no order passed against him in existence as on today, keeping the amount pending is of no use and he prays for withdrawal of the said amount.

3. The learned advocate Mr. Dodya for respondent Nos. 4 and 9 vehemently opposes the application. He submits that, already recovery certificate is issued against the applicant and other persons. If the amount is allowed to be withdrawn, it would be difficult for the bank to withdraw the amount. He further points out that, now presently there is liquidator appointed over the bank. The amount which was deposited in this Court is

transferred to the society. Since there is liquidator on the society there are restrictions and liquidator cannot allow withdrawal of the amount above Rs. 5,00,000/- and that is a difficulty in withdrawing the amount.

4. Be that as it may, since the amount was deposited as per the order of this Court and the same is transmitted to the society under the orders of this Court, it is this Court who has control over the said amount. Merely because now liquidator is appointed the character of the amount would not change. This Court thus finds that the application needs to be allowed as there is no order under section 101 of the M.C.S. Act in existence as on today against the applicant.

5. Considering the above, following order :

ORDER

(I) The amount deposited by the applicant pursuant to order dated 11.01.2013 which is now transferred to the society is allowed to be withdrawn along with accrued interest by filing undertaking that, in case, the proceeding is allowed he shall make payment of the said amount within twelve weeks from the date of

such order.

(II) The findings are only for the purpose of passing order in this application. The authorities to apply mind independently.

(III) With this, the application stands disposed of.

(KISHORE C. SANT, J.)

P.S.B.