

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

901 WRIT PETITION NO. 11396 OF 2024

HARIBHAU DAGDUJI SONWANE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...
Advocate for the Petitioner : Mr. Suresh Walmikrao Munde
AGP for Respondent Nos. 1 & 2/State : Mr. V.S.Badakh
Respondent Nos. 3 is served.
Advocate for Respondent No. 4 : Mr. Kamlakar J. Suryawanshi
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CORAM : ROHIT W. JOSHI, J.

DATE : 14.08.2025.

PER COURT :

1. The present petition is filed challenging the order dated 27.06.2024 passed by the Deputy Registrar of the Co-Operatives (Parseva) Chatrapati Sambhaji Nagar (Aurangabad) under Section 101 (1) of the Maharashtra Co-Operative Societies, Act, 1960, (hereinafter referred to as the "M.C.S." Act) for brevity, holding that the petitioner is liable to pay an amount of Rs. 61,86,433/- along with interest @ 12 % p.a. Pursuant to the said order an attachment warrant dated 19.07.2024 came to be issued, which is also under challenge, in the present petition.

2. At the outset, learned Advocate for respondent No. 4 states that the petitioner has an alternative remedy of filing a revision under Section 154 (2A) of the M.C.S. Act. He states that in view of Section 154 (2A) of the M.C.S. Act, the petitioner will have to deposit 50% of the claim amount for the purpose of filing Revision. Learned Advocate contents that the present petition has filed only with a view to avoid the statutory deposit.

3. Learned Advocate for the petitioner counters the contention by stating that the present proceeding under Section 101 of the M.C.S. Act was initiated on 22.03.2024 and prior to that vide order dated 06.07.2023 liquidator was appointed on the Society pursuant to the order passed by the Reserve Bank of India, canceling the banking license of the respondent Society. Learned Advocate contends that the proceeding under Section 101 was not maintainable, in view of cancellation of banking license and appointment of liquidator. Referring to the application and order passed under Section 101 of the M.C.S. Act, the learned Advocate contends that the order does not indicate that the proceeding was initiated as per instructions of the liquidator.

4. In response, learned Advocate for respondent Society states that the order dated 06.07.2023 appointing liquidator was

stayed by the State Government vide order dated 12.07.2023. He points out that this order granting stay was operating till 03.04.2024 i.e. till the same was stayed by this Court vide order passed in Writ Petition No. 2645 of 2024 on 03.04.2024. Learned Advocate for the respondent Society states that the liquidator has taken the charge of the society on 11.07.2024. He contends that on 06.07.2023 i.e. the date of filing of application as also on 22.03.2024 i.e. the date on which the application was allowed, the liquidator had not taken charge of the society. As regards the cancellation of banking license, learned Advocate contends that the cancellation of banking license will not have effect of restraining respondent Society from taking measures for recovery of outstanding dues payable by the borrowers.

5. Having heard the rival submissions as aforesaid and having regard to the mandate of Section 154 (2A) of the Act, in the considered opinion of this Court, it will be expedient that the petitioner directed to deposit approximately 50% of the amount due and payable as on date of filing of the petition. Although the said provision will not be applicable in case of filing of the Writ Petition, it is necessary to test the bonafides of the petitioner. The interest of the respondent Society is also required to be safeguarded. The petitioner, is, therefore, directed to deposit amount of Rs. 33,00,000/- (Rs, Thirty Three Lakhs Only) with this Court on or

before 30.09.2025. In the event, the amount is not deposited, the Writ Petition stands dismissed without reference to the Court.

6. It needs to be mentioned here that as per Section 154 (2) (a) of the Act the amount is required to be deposited with the Society, however, in the peculiar facts of this case, as the Society is under liquidation, the direction is issued to deposit the aforesaid amount with this Court rather than to deposit it with the Society.

7. Stand over to 01.10.2025.

(ROHIT W. JOSHI)
JUDGE

mahajansb/