

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11727 OF 2024**

1. Rubina Salim Shaikh,
Age 49 years, Occup. Household

2. Salim Sayyadsahab Shaikh,
Age 55 years, Occup. Business.
Both are Residing at post Malinagar,
Taluka- Malshiras, Dist. Solapur. Versus
Versus

...Petitioners

1. Omshri Ganesh Gramin Bigar Sheti
Sahakari Patsanstha Mydt.
Registered under the provisions of
M.C.S Act 1960,
Having its office at; Malinagar,
Tal. Malshiras, Dist. Solapur.
Through Authorized Officer

2. Shri. Panjabrao Dnyandeo Shinde
Age 49 years, Occup. Agri,
Residing at post Bijawadi,
Taluka Malshiras, Dist. Solapur

...Respondents

Adv. Kedar Lad a/w. Adv. Shekhar V. Mane i/b. Adv. Prabhakar M.
Jadhav, Advocate for petitioners.

Adv. Vishwanath S. Talkute a/w. Adv. Sampada S. Patil a/w. Adv.
Pratik Bhojane, Advocate for respondents.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : DECEMBER 3, 2025

JUDGMENT:

1. Petitioners impugn order dated 7th November 2023 passed
by Maharashtra State Cooperative Appellate Court, Mumbai Bench

at Pune in Appeal No. 50 of 2023, thereby upholding the judgment and award dated 6th April 2023 passed by Cooperative Court, Solapur in Co-operative Case No. 280 of 2018.

2. Respondent–Cooperative Society filed a dispute under Section 91 of Maharashtra Cooperative Societies Act, 1960 against petitioners for recovery of an amount of Rs. 6,52,581/-. It is contention of petitioners that opponents are its members. On 10th September 2014 opponent no. 1 asked for a loan of Rs. 5,50,000/-. On 3rd December 2014 society sanctioned soon and disbursed a loan amount of Rs. 5,00,000/- toPetitioner no. 1, petitioner no. 2 and respondent no. 3 stood as guarantors for loan. Petitioners agreed to pay interest @ 15% p.a. She executed documents such as a promissory note and Karjrokha. After disbursement of loan, she defaulted in repayment. As on 31st May 2018, an amount of Rs. 6,52,581/- was due and outstanding from petitioners.

3. Petitioners filed a written statement and contended that secretary of respondent society exercised fraud. He obtained signatures on loan documents but he never disbursed loan amount to her.

4. The Cooperative Court framed issues, recorded evidence of

parties, and finally dismissed dispute. Aggrieved by decision of Cooperative Court, respondent no. 1-society filed Appeal No. 50 of 2023 before Maharashtra State Cooperative Appellate Court, which is allowed dispute and passed an award of Rs. 6,52,581/- along with interest @ 15% p.a. against petitioners. Hence, this writ petition.

5. Mr. Kedar Lad, learned Advocate appearing for petitioners submits that specific defence that loan was never disbursed to petitioners was raised in written statement. Trial Court had rightly appreciated aforesaid defence and dismissed the dispute. However, Appellate Court erroneously set aside order of Cooperative Court passed award.

6. Per contra, Mr. Vishwanath Talkute, learned Advocate appearing for respondents, supports impugned order passed by Appellate Court. He points out that petitioners never disputed execution of loan documents, but have taken a novel plea that amount was not disbursed. Appellate Court has rightly appreciated pleading and evidence on record while neglecting defence of petitioners, eventually, passed an award in dispute filed by society.

7. Having considered submissions advanced by learned

Advocate appearing for respective parties and perusal of documentary evidence tendered into service, it can be observed that petitioners are husband and wife. Petitioner no. 2 was a member of Managing Committee of respondent-society. Loan was sanctioned in favour of petitioner no. 1. Indisputably, petitioner no. 1 applied for financial aid of Rs. 5,50,000/- from respondent-society for construction of her house. She executed all loan documents, i.e., loan agreement, demand promissory note, and surety bond. In light of aforesaid background, Trial Court accepted defence of petitioners. It observed that since loan agreement, demand promissory note, and surety bond have been admitted by petitioner no. 1, primary burden has been discharged by society. Petitioners are endeavoring to make out a case that Secretary and Chairman of society have exercised fraud upon them.

8. Pertinently, petitioners never complained about such fraud. It is their case that Secretary and Chairman prepared a bearer cheque in the name of opponent no. 1, encashed the same from Solapur District Central Cooperative Bank, and misappropriated the amount. Record shows that disbursement of loan amount was in two parts: an amount of Rs. 3.95 lakhs was paid to borrower by

way of cheque, which was withdrawn by petitioner no. 1 by signing counterfoil, and balance amount was transferred to her savings account. During course of cross-examination, a question was put to witness of disputant society as to whether such documents were available with him, to which he answered in affirmative, so also and produced those documents on record. Pertinently, petitioners did not cross-examine witness on aforesaid documents. There is nothing on record depicting that petitioners ever disputed those documents during the course of trial.

9. The withdrawal slip and counterfoil of cheque are placed on record and admitted in evidence. The statement of account maintained in due course of business is also filed on record. It justifies claim of respondent-society.

10. Appellate Court has rightly observed that it is difficult to believe that Chairman and Secretary would indulge in fraud against member of Managing Committee of society. Silence of petitioners for almost four years from the date of sanction and disbursement of loan speaks volume.

11. This Court do not find any reason to interfere with finding of facts recorded by Appellate Court on appreciation of evidence.

12. In result, Writ Petition sans merit. Hence, dismissed.

(S. G. CHAPALGAONKAR, J.)