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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4259 OF 2016

Abaji Namdeo Pawar ... Petitioner
V/s.
Sahakar Maharshi Kal Hanumantrao
Pawar Vividh Karyakari Sahakari
Society Ltd. & Ors. ... Respondents

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**WITH
WRIT PETITION NO.4556 OF 2016**

Bhanudas Namdeo Pawar ... Petitioner
V/s.
Sahakar Maharshi Kal Hanumantrao
Pawar Vividh Karyakari Sahakari
Society Ltd. & Ors. ... Respondents

Mr. B.A. Lawate for the petitioner in both the WPs.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 15, 2025

P.C.:

1. Since the facts involved in both the writ petitions are similar and the legal issues raised are inter-connected, both the writ petitions are disposed of by this common order to avoid duplication of judicial effort and ensure consistency in reasoning and conclusions.

2. The petitioner, who is the original disputant, filed a dispute before the Cooperative Court under Section 91 of the Maharashtra

Cooperative Societies Act, 1960. The petitioner seeks a declaration that the loan documents purportedly executed in the petitioner's name are false and fabricated and that the petitioner is not liable to repay the loan amount. The petitioner has also sought an injunction restraining respondent No.1 – Society from initiating or continuing any recovery proceedings for the said loan amount. The dispute pertains to the validity of the loan transaction and the consequent liability of the petitioner, which falls squarely within the jurisdiction of the Cooperative Court under Section 91.

3. During the pendency of the dispute, the petitioner filed an application for a temporary injunction under Section 95 of the Maharashtra Cooperative Societies Act, 1960, seeking to restrain the society from recovering the loan amount through coercive measures or otherwise. Such interim relief is ancillary to the main dispute and aims to maintain the status quo to prevent irreparable harm to the petitioner pending adjudication.

4. The application for temporary injunction filed by the petitioner was rejected by the Cooperative Court, observing that the statutory remedy available to the society under Section 101 of the Maharashtra Cooperative Societies Act, 1960, for recovery of dues cannot be curtailed by an injunction. Section 101 provides a summary remedy for recovery of dues, and it is the prerogative of the creditor society to choose the appropriate course of action under either Section 91 or Section 101.

5. In this context, the Courts below have correctly noted that the determination of whether the petitioner is liable for the loan

amount, and whether the loan documents are genuine, are issues to be adjudicated in the substantive dispute filed under Section 91. The Courts have rightly declined to grant interim relief that would preclude the society from exercising its statutory rights under Section 101. This approach aligns with the settled principle that injunctions should not be granted to prevent statutory authorities or entities from exercising their legitimate powers unless a strong prima facie case is made out.

6. Injunctions that impede statutory functions must be sparingly granted and only when irreparable harm is demonstrated. The petitioner has failed to establish such irreparable harm or a prima facie case, and hence the Courts below were justified in rejecting the application for injunction.

7. In light of the above observations and the legal position, there is no merit in the writ petitions. The petitioner has not demonstrated any error of law or jurisdictional infirmity in the orders passed by the Courts below. Accordingly, both the writ petitions stand dismissed. No order as to costs.

(AMIT BORKAR, J.)