

2025:BHC-AS:4531-DB



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10318 OF 2024

Prangadhar Chandrakant Banajgole

...Petitioner

Vs.

The State of Maharashtra & Ors.

...Respondents

Mr. Suhas Inamdar for the petitioner.

Ms. S.S. Bhende, AGP for the State.

Mr. Anant Vadgaonkar for respondent no. 4.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATED: 29 JANUARY 2025

P.C.

1. This petition essentially challenges an order dated 19 March, 2024 passed by the Divisional Joint Registrar Co-operative Societies, Pune Division, Pune, whereby the appeal filed by the petitioner, being Money Lending Appeal No. 15 of 2023 under Section 18(4) of the Maharashtra Money Lending (Regulation) Act, 2014 (for short **“the Act”**) has been dismissed. It is the petitioner’s contention that the petitioner was a bonafide purchaser of the land in question, being Gat No. 77/1 admeasuring 1 H 43 R situated at Village Boregaon, Taluka Akkalkot, District Solapur, from respondent no. 7-Shakil A. Kadar Jailer under a registered Sale Deed dated 27 June, 2016. It so transpired that respondent no. 4, who was the original owner of the land, had taken a loan of Rs.2,00,000/- from respondent no. 5 and 6 and executed a sale deed dated 30 March, 2010 in favour of respondent nos. 5 and 6 as a security with an agreement that after the

repayment of loan, respondent nos. 5 and 6 would return the land to respondent no. 4 by executing reverse sale deed. It is respondent no. 4's case that respondent nos. 5 and 6 sold the said land to respondent no. 7 under the sale deed dated 20 December, 2014, who in turn, sold the said land in favour of the petitioner under the sale deed dated 27 June, 2016.

2. Respondent no. 4 had invoked the provisions of Section 18 of the Act and filed an application before the Deputy Registrar, Cooperative Societies on 2 March, 2015 praying that respondent nos. 5 and 6 have indulged in illegal money lending transactions and an action be taken against them under the provisions of the said Act as also the sale deed dated 30 March, 2010 issued by respondent no. 4 in favour of respondent nos. 5 and 6 be annulled. By judgment and order dated 1 December, 2022, the said application was decided by the Authority annulling the sale deed dated 30 March, 2010 in terms of the following operative order:

“(Translation of a Photocopy of a portion from Order, typewritten in Marathi.)

ORDER

I, Kundan V. Bhole, District Registrar of Money Lenders and District Deputy Registrar, Co-operative Societies, Solapur, in exercise of the powers conferred upon me under Section 18 (2) of the Maharashtra Money Lending (Regulation) Act, 2014, hereby declare that the Instrument bearing No. 1408/2010, dated 30.03.2010 in respect of the Application/Suit property viz Agricultural land, admeasuring 01 Hectore, 43 Are, from out of the land bearing Gat No.77/1 C, Assessment Rs.03, Paise 11, situated within the limits of Village– Boregaon, Sub-Division Taluka – Akkalkot, Division – Solapur executed by the Plaintiff, Shri. Suryakant Malkappa Banajgole in favour of the Defendant No. 01, Sau. Shalan Umakant Rathod being a Sale-Deed given as a security for money lending, is illegal and hence, I cancel the same. Similarly, the Instrument bearing No. 5251/2014, executed thereafter by the

Defendant No. 01 in view of the said Instrument bearing No. 1408/2010 also gets cancelled. Therefore, the Agricultural land, admeasuring 01 Hecter, 43 Are from out of the land bearing Gat No.77/1 C, Assessment Rs.03, Paise 11, situated within the limits of Village- Boregaon, Sub-Division Taluka – Akkalkot, Division – Solapur is restored in favour of the original owner, Shri. Suryakant Malkappa Banajgole, resident at and Post-Boregaon, Taluka- Akkalkot, District-Solapur and even the Instrument bearing No. 1408/2010 in respect thereof is returned to him. Further, it is hereby ordered that the possession of the Suit Property should be handed over to the Plaintiff.

In view of the aforesaid order, the concerned Competent Authority should implement the aforesaid order and should make a Mutation Entry in respect of the said land accordingly as per Section 18(6) of the Maharashtra Money Lending (Regulation) Act, 2014

This Order is passed under my signature and under the seal of this Office, on the date 01.12.2022.

(Seal of the
Registrar of Money Lenders,
Solapur)

(Signature Illegible)
(Kundan V. Bhole)
District Registrar of Money
Lenders and
District Deputy Registrar,
Co-operative Societies, Solapur

3. On a perusal of title of the said order, it is clear that respondent no. 4 was the applicant and although initially the said application was filed against respondent no. 5-Smt. Shalan Umakant Rathod and respondent no. 6-Umakant Rathod, however, subsequently respondent no. 7-M. Shakil A. Kadar Jailer as also the petitioner-Gangadhar Chandrakant Banajgole were impleaded as parties.

4. It is the case of the petitioner that although the petitioner was impleaded in the said proceeding filed by respondent no. 4 under Section 18 of the Act, the petitioner was not given a notice of the said proceeding and it came to be decided ex-parte. It is submitted that in these circumstances, the petitioner had filed an appeal, on which impugned order dated 19 March,

2024 has been passed by the Appellate Authority, however, the Appellate Authority without taking into consideration that the petitioner was not heard and/or on the date on which the original order on respondent no. 4's application was pronounced, i.e., 1 December, 2022, not only respondent no. 7 possessed substantive legal rights, but also, the petitioner under the sale deed dated 27 June, 2016 substantive rights were transferred in respect of the land in question. It is hence petitioner's contention that any order adverse to the petitioner without taking into consideration lawful sale of the land in question in favour of the petitioner under sale deed dated 30 March, 2010 could not have been annulled, under the provisions of Section 18 of the Act under the order dated 1 December, 2022 passed by the original authority. It is also his submission that although the sale deed dated 30 March, 2020 executed between respondent no. 4 and respondent nos. 5 and 6 has been annulled, however, it would have a cascading effect on the petitioner's right and for such reason, the impugned order would be required to be quashed and set aside, as the impugned order does not consider subsequent events, which is clear from the plain reading of the said order.

5. We have heard learned counsel for the petitioner, learned counsel for respondent no. 4, who has succeeded in his appeal filed under Section 18 as also learned AGP. We have perused the record with their assistance. At the outset, it appears to us that the application in question came to be filed by respondent no. 4 on 2 March, 2015 and the same came to be adjudicated by

the order dated 1 December, 2022. Primarily it decides the dispute between respondent no. 4 and respondent nos. 5 and 6. Although respondent no. 7 as also the petitioner are parties, the substantive rights which were created in favour of respondent no. 7 and in turn, in favour of the petitioner was also subject matter of consideration. It is not in dispute that the petitioner was not heard by the Original Authority and the order dated 1 December, 2022 came to be passed annulling the sale deed dated 30 March, 2020. Such order passed by the Original Authority was challenged by the petitioner before the Appellate Authority. However, from the plain reading of the said order, it appears that the infirmity that the petitioner was not heard and in regard to the specific contentions which the petitioner intended to canvass, have not been dealt in the impugned order.

6. In the aforesaid circumstances, we are of the clear opinion that the proceedings are required to be remanded to the Original Authority, namely, Deputy Registrar, Cooperative Societies by setting aside the order dated 1 December, 2022. The Deputy Registrar shall hear all the parties including the petitioner, respondent no. 7 and contesting respondent nos. 5 and 6 and pass fresh order in accordance with law within a period of six months from today. All contentions of the parties in that regard are expressly kept open.

7. Disposed of in the above terms. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)