

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15973 OF 2024

Shri. Sudam Shripati Bankar

....*Petitioner*+

V/s.

Maharashtra Rajya Vidyut Company
Satara Jilha Sevakanchi Sahakari Path
Sanstha Maryadit and Ors.

....*Respondents*

Mr. Manoj A. Patil, *i/by. Mr. Gourav V. Shahane and Mr. Krushna Jaybhay,*
for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

Date : 20 January 2025.

P.C. :

1) The petition challenges the judgment and order dated 17 January 2024 passed by the Co-operative Court dismissing the Appeal preferred by the Petitioner and confirming the judgment and order dated 28 June 2023 passed by the Co-operative Court.

2) I have heard Mr. Patil, the learned counsel appearing for the Petitioner and have considered the submissions canvassed by him.

3) There are concurrent findings of facts recorded by the Co-operative Court and the Appellate court on the issue of execution of the loan documents and I am not inclined to interfere in those concurrent findings on the basis of submissions canvassed by him that there is an overwriting in some of the loan documents.

4) So far as the aspect of limitation is concerned, the provisions of Section 92 of the M.C.S. Act 1960 are very clear. The period of limitation for filing a dispute against a member is 6 years from the date the member dies or ceases to be a Member of the Society. The death of the borrower has taken place on 23 November 2007 and the dispute was filed within a period of 5 years, 5 months and 1 day on 23 April 2013. The dispute was therefore preferred within limitation. It is sought to be contended that the period of limitation will have to be computed from the date of default as the borrower did not pay even a single installment during his lifetime. I am unable to agree. Under the provisions of Section 92(1)(a) of the Act, the dispute could have been filed within a period of 6 years from the date of death of the member. The day on which the default occurs is completely irrelevant. The Appellate Court has rightly answered the issue of limitation.

5) I am unable to trace any patent error in the concurrent findings recorded by the Co-operative Court and the Appellate Court. The Writ Petition is devoid of merits. It is accordingly rejected.

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[SANDEEP V. MARNE, J.]