

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

ARBITRATION PETITION NO.194 OF 2025

1. Bhairavi Engineers and
Infrastructure Pvt Ltd,
Through its authorised Director-
Mrs. Smita Prakash Survase,
Age: 53 Years, Occ.: Govt. Contractor,
R/o. L-52, Snehsanwad Nagar,
Near Banthanal Math, Mhada Colony,
Jule Solapur, Solapur-413 004.
2. Mrs. Smita Prakash Survase,
R/o. L-52, Mhada Colony,
Near Banthnal Math,
Jule Solapur, Solapur-413 004.
3. Mr. Udaysinh Prakash Survase
Age-27, R/o. L-52, Mhada Colony,
Near Banthnal Math,
Jule Solapur, Solapur-413 004.
4. Mr. Prakash Vitthalrao Survase,
Age 57, R/o. L-52, Mhadacolony,
Near Banthnal Math,
Jule Solapur, Solapur-413 004.
5. Miss. Priyanka Prakash Survase,
Mrs. Priyanka Prithviraj Methe,
Age-32, R/o. L-52, Snehsanwad Nagar,
Mhada Colony Near Banthnal Math,
Jule Solapur, Solapur
6. Mr. Pratapsinh Prakash Survase,
Age-25, R/o. L-52, Snehsanwad Nagar,

Mhada Colony, Near Banthnal Math,
Jule Solapur, Solapur.

7. M/s. Shri Swami Samarth Construction,
Through its sole proprietor Smita P. Survase,
R/o. L-52, Snehsanwad Nagar,
Mhada Colony Near Banthnal Math,
Jule Solapur, Solapur.

8. M/s. Surya Construction,
Through its sole Proprietor
Prakash V. Survase,
R/o. M-41, Sahawas Nagar,
Near Banthanal Math,
Mhada Colony, Jule Solapur.

.....Petitioners

V/s.

1. Solapur Janata Sahakari Bank Ltd.
(Multi-state schedule cooperative bank)
R/o. Head Office, Gaganbharari,
Shivsmarak Sankul, Gold Finch Peth,
Solapur-413 007.
2. Mr. Mahadev Shinde,
Arbitrator appointed by Central Registrar
u/s.84 of the Multi-state Cooperative
Societies Act, 2002.
Solapur Janata Sahakari Bank Ltd.
Office-103 "Wardhman Appartment",
Railway Line, Near Iyyer Hospital
Solapur-413001.

...Respondents

WITH

ARBITRATION PETITION NO.195 OF 2025

1. M/s. Surya Construction,
Through its sole Proprietor
Prakash V. Survase,

Age: 57 Years,
Occ.: Govt. Contractor,
R/o. M-41, Sahawas Nagar,
Near Banthanal Math,
Mhada Colony, Jule Solapur.

2. Miss. Priyanka Prakash Survase,
Mrs. Priyanka Prithviraj Methe,
Age-32 Years, Occ- Doctor,
R/o. L-52, Snehsanwad Nagar,
Mhada colony, Near Banthnal Math,
Jule Solapur, Solapur.
3. Smt. Nirmala Vishwas Wable,
Age-74 Years, Occ- Farmer,
R/o. Tamdardi, Tal-Mangalvedha,
Dist- Solapur.
4. Smt. Smita Prakash Survase,
Age-53 Years, R/o. L-52, Mhada colony,
Near Banthnal Math,
Jule Solapur, Solapur-413 004.
5. M/s. Surya Builders & Developers,
Authorized Partner
Mr. Prakash V. Survase,
R/o. L-52, Mhada colony,
Near Banthnal Math,
Jule Solapur, Solapur-413 004

.....Petitioners

V/s.

1. Solapur Janata Sahakari Bank Ltd.
(Multi-state schedule cooperative bank)
R/o. Head Office, Gaganbharari,
Shivsmarak Sankul, Gold Finch Peth,
Solapur-413 007.
2. Mr. Mahadev Shinde,
Arbitrator appointed by Central Registrar

u/s.84 of the Multi-state Cooperative Societies Act, 2002.
Solapur Janata Sahakari Bank Ltd.
Office-103 "Wardhman Appartment",
Railway Line, Near Iyyer Hospital
Solapur-413 001.

...Respondents

Dr. Uday Warnjekar, i/b. Mr. Shantanu Raktate with Mr. Ajinkya Desai & Mr. Ajay Parsekar, for the Petitioners.
Mr. MurlidharKhadilkar with Mr. Chinmay Page, for Respondent No.1.
Mr. Sarang S. Aradhye with Mr. Shantanu Gurav with Ms. Dnyaneshwari Utpat, for the Respondent No.2.

CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 7th NOVEMBER 2025

PRONOUNCED ON : 17th NOVEMBER 2025

JUDGMENT :-

1. The Petitioners impugn order dated 6th September 2025 passed by Arbitrator appointed under Section 84 of Multi State Cooperative Societies Act, 2002 (For short, '**the Act**'), thereby directing attachment before Award in exercise of powers under Section 96 of the Act. Petitioners had approached Respondent No.-1-Bank seeking credit facility and offered books and accounts as primary security alongwith mortgage of immovable property by way of security. Accordingly, Respondent No.1-Bank sanctioned credit facility. On 16th August 2025, bank declared loan account of Petitioner as 'NPA'

with effect from 31st March 2025. Eventually, made reference of dispute to Arbitrator under Section 84 of the Act.

2. The Respondent No.1-bank also filed an application under Section 96 of the Act seeking attachment before Award. The Respondent No.2, who is appointed as arbitrator by Central Registrar passed *ex parte* order directing attachment of accounts mentioned in Clause No.1 of order, in exercise of powers conferred under Section 96, with further clarification that in case security is furnished for amount claimed, attachment shall not be given effect and further issued notice to Petitioner as to why order of attachment should not be made absolute. Being aggrieved by *ex parte* order passed by Respondent No.2, present Petitions have been filed under Section 37 of Arbitration and Conciliation Act 1996.

3. Dr. Uday Warunjikar, learned Advocate appearing for Petitioners submits that impugned order of attachment is passed without notice to Petitioners accepting bare words of Respondent No.1. Petitioners have already furnished the details of due and payable bills as confirmed by Government Authorities towards the works executed by them. He would submit that order of attachment

has curtailed banking operation of Petitioners. According to Dr. Warunjikar, Respondent No.2-Arbitrator has recorded finding that pending arbitration, Petitioners are intending to defeat or delay the execution of Award and likely to dispose of the property. He would further urge that order passed under Section 96 of Act shall be executed by Civil Court, as if said order is passed by itself. However, in present case, Respondent No.1-bank has illegally issued letters dated 6th September 2025 and 8th September 2025 to concerned bank authorities to freeze bank accounts and attached the same illegally, giving complete go by to provisions of law and even impugned order. Mr. Warunjikar would further submit that the personal bank accounts are also attached in draconian manner. He would, therefore, urge that impugned order be quashed and set aside.

4. Mr. Muralidhar Khadilkar, learned Advocate appearing for Respondent No.1-bank would urge that undisputedly, Petitioners have obtained loan (Cash Credit Facility) from Respondent No.1-bank by mortgaging immovable and movable property. After availing credit facility, Petitioners have defaulted in payment of installment. Eventually, on 31st March 2025 loan accounts have been classified as 'NPA'.

5. In this background, reference is made to Arbitrator under Section 84 of the Act. The reference was preceded by notice of demand. Petitioners have neither cleared loan, nor have given security, hence applications were moved for attachment of accounts. He would submit that Section 96 of the Act gives power to Arbitrator to pass interim or ad-interim orders including attachment of property before Award. The same powers are analogous to Section 17 of Arbitration and Conciliation Act, 1996. Mr. Khadilkar would further submit that Respondent No.1-bank has made communication of interim order passed by Arbitrator to Branch Manager of HDFC Bank, which cannot be construed as execution of order. He would, therefore, urge to reject the appeal

6. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that undisputedly, Petitioners have availed cash credit facility from Respondent No.1-bank. They failed to repay loan as per agreed terms. The loan account is already classified as 'NPA' with effect from 31st March 2025. Apparently, Respondent No.1-bank is entitled to take steps for recovery of loan. The Respondent No.1 being Multi State Cooperative

Bank resorted to reference of dispute to arbitration in terms of Section 84 of the Act. Accordingly, Respondent No.2 has been appointed by Central Registrar as Arbitrator. The Respondent No.1-bank submitted application under Section 96 of the Act seeking attachment before Award. In deference to such application, impugned orders have been passed.

7. The Petitioners are raising two-fold objections while impugning attachment order passed by Arbitrator. Firstly, such an order is passed without giving notice to Petitioners. Secondly, prerequisite conditions for passing attachment order are not complied with.

8. The perusal of impugned order would show that Arbitrator observed that Petitioners with intention to avoid liability of repayment of loan amount, tried to withdraw the amount from various bank accounts. The reliance is placed on affidavit filed by Recovery Officer. The Arbitrator has recorded *prima facie* satisfaction as to intention of Petitioners to withdraw amount from various bank accounts with intention to delay execution of Award, which might be passed. Pertinently, Petitioners are given liberty to furnish security for amount due and in case, such security is

furnished, immunity is to be maintained from attachment of bank accounts. Clause 5 of operative part suggests that while passing *ex parte* attachment order, notice is given as to why attachment should not be made absolute. Apparently, Arbitrator has passed *ex parte* ad-interim order of attachment of bank accounts.

9. The Petitioner is at Liberty to contest attachment application by filing reply. The Arbitrator is bound to consider the reply filed by Petitioner and record adequate reasons before confirming order of attachment. It is not a case where Arbitrator is powerless to pass ad-interim order. If Arbitrator *prima facie* satisfied that there are sufficient reasons to pass *ex parte* interim order of attachment, looking to emergency situation, such an order can be passed. Further, *ex parte* ad-interim order may be vacated, if Petitioners demonstrates that ground for attachment before Award does not exist in facts of case or offers adequate security to satisfaction of Arbitrator that prospective Award can be executed even in absence of attachment before Award.

10. It is well settled that if Arbitral Tribunal took a plausible view or order does not suffer from perversity, requiring interference under

Section 37 of Arbitration and Conciliation Act 1996, an interference by Appellate Court need not go into facts and law on every aspect and substitute its own opinion in place of opinion of Arbitral Tribunal.

11. This Court finds that at this stage Petitioners have ample opportunity to put up their defense against confirmation of attachment before Award. In result, this is not a fit case to exercise jurisdiction under Section 37 of Arbitration and Conciliation Act.

12. Before concluding, this Court observes that Petitioners are entitled to seek vacation of *ex parte* ad-interim order of attachment before Award and Arbitrator is under obligation to immediately consider objection of Petitioner and expeditiously pass further order; either confirming or removing attachment before Award.

13. In that view of the matter, Petitions stand dismissed *in limine*.

14. All contentions raised by the parties are kept open to be considered by the Arbitrator

(S. G. CHAPALGAONKAR, J.)