

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

WRIT PETITION NO.18643 OF 2024

Shankarrao Mohite Patil Sahakari Bank Ltd.Petitioner
V/S
Vitthal Govind Pawar & Ors.Respondents

Mr. Mandar Soman i/b Mr. R.D. Phade *for the Petitioner.*
Mr. S.S. Panchpor *for Respondents.*

CORAM: SANDEEP V. MARNE, J.
DATE : 02 JANUARY 2025.

P.C.:

1. Mr. Panchpor, the learned counsel appearing for Respondent No.1 invites my attention to the judgment of the Apex Court in ***Triloki Nath Singh vs. Anirudh Singh (Dead) through Legal Representatives & Ors.***, (2020) 6 SCC 629 in support of his contention that he is stranger to the compromise decree and cannot challenge lawfulness of such compromise decree by filing any independent proceedings and that legality of compromise decree must be questioned before the same Court which recorded the compromise. Mr. Panchpor would accordingly submit that the remedy of filing Appeal before the Maharashtra State Co-operative Appellate Court by Respondent No.1 to question the compromise decree is clearly erroneous. He would accordingly submit that Respondent No.1 no longer wishes to

prosecute the Appeal before the Co-operative Appellate Court. Instead he would submit that Respondent No.1 be granted liberty to file an appropriate application before the Co-operative Court which recorded the compromise.

2. In view of the fact that Respondent No.1 no longer wishes to prosecute the Appeal before Co-operative Appellate Court, the order dated 27 November 2024 passed by the Appellate Court would no longer survive. Similarly, the interim order of *status quo* granted by the Co-operative Appellate Court on 5 December 2024 would also no longer survive.

3. I accordingly proceed to pass the following order:

i) Order dated 27 November 2024 passed by Maharashtra State Co-operative Appellate Court in Miscellaneous Application No.57 of 2024 is set aside. The Co-operative Appellate Court shall accordingly pass a formal order of closure of Appeal proceedings.

ii) Order dated 5 December 2024 passed by the Co-operative Appellate Court on Application at Exhibit 60 is also set aside.

iii) Respondent No.1 would be at liberty to file an appropriate application before Co-operative Court which recorded the

compromise, for setting aside the same. Such application, if filed shall be decided by the Co-operative Court on its own merits without being influenced by any of the observations made by the Appellate Court in order dated 27 November 2024. The Respondent No.1 shall be at liberty to move an appropriate application for grant of interim/ad-interim relief in the application so moved before it.

4. Mr. Soman, the learned counsel appearing for the Petitioner-Bank, on instructions, makes a statement that the Petitioner-Bank shall not take any further precipitative steps and maintain *status quo* in respect of mortgaged property for a period of three weeks.

5. With the above directions, Writ Petition is **disposed of**.

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(SANDEEP V. MARNE, J.)