

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 451 OF 2024

Sangli Urban Co-Operative Bank Ltd & Anr. .. Petitioners

Versus

The State of Maharashtra & Ors. .. Respondents

.....

- Mr. Vikram N. Walawalkar a/w Mr. Amey Sawant, Ms. Sayali Gangal & Mr. Viren Tapkir for Petitioners
- Mr. Y.D. Patil, AGP for Respondent Nos. 1 to 3

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 02, 2024

P. C.:

1. Heard Mr. Walawalkar, learned Advocate for Petitioners and Mr. Patil, learned Advocate for Respondent Nos. 1 to 3.

2. Perused the impugned order dated 26.10.2023 which is at Exh. K, page Nos. 118-123 passed in Revision Application No. 97/2023. By virtue of the impugned order passed in the Application filed under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (for short, "**the said Act**"), Divisional Joint Registrar has allowed the Revision Application of the Applicants (Respondent Nos. 4 to 11 herein) and as a consequence thereof, quashed and set aside the possession notice dated 18.01.2023.

3. The facts in the present case are extremely gross as narrated by Mr. Walawalkar. The facts speak for themselves. Private Respondents

i.e. Respondent Nos. 4 to 11 who were the Applicants before the Divisional Joint Registrar are admittedly principal borrowers. Mr. Walawalkar at the outset has drawn my attention to paragraph No. 4 of the Application dated 15.03.2023 which reveals that there are seven recovery certificates in different denominations issued against the Respondents. The total of the seven recovery certificates along with interest from 16.06.2021 i.e. the date of the certificates is approximately Rs. 12.5 Crore as on date. Without depositing a single farthing, the principal borrowers filed Revision Application No. 97/2023.

4. Mr. Walawalkar has therefore drawn my attention to the provisions of Section 154-2(A) of the said Act which reads as under:-

154. Revisionary powers of State Government and Registrar

(1) The State Government or the Registrar, suo motu or on an application, may call for and examine the record of any inquiry or proceedings of any matter, other than those referred to in sub-section (9) of section 149, where any decision or order has been passed by any subordinate officer, and no appeal lies against such decision or order, for the purpose of satisfying themselves as to the legality or propriety of any such decision or order, and as to the regularity of such proceedings. If, in any case, it appears to the State Government, or the Registrar, that any decision or order so called for should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may, after giving the person affected thereby an opportunity of being heard, pass such orders thereon as to it or him may seem just.

(2) Under this section, the revision shall lie to the State Government if the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.

2(A) No application for revision shall be entertained against the recovery certificate issued by the Registrar under section 101 [or

*Section 154B-29] [***] unless the applicant deposits with the concerned society, fifty per cent. amount of the total amount of recoverable dues. If the revision application is allowed, the Revisional Authority may pass an order directing the society to refund the amount so deposited to the applicant.”*

4.1. He would contend that in view of the aforesaid provisions and the specific ground opposing maintainability of the Revision Application enumerated in paragraph No. 4 of the Petitioners' Application, it was incumbent upon the Revisional Authority to seek the mandatory deposit of 50% for entertaining the Revision Application.

5. I have perused the impugned order and the pleadings in the present case. I have also heard Mr. Patil, learned AGP who appears for Respondent Nos. 1 to 3. In the gross facts of the present case, I do not find it necessary to even issue notice to the principal borrowers. What I find is that the objection on maintainability taken by the Petitioners is not even acknowledged by the Revisional Authority while passing of the impugned order dated 26.10.2023. It could have been a different thing if the said ground would have been acknowledged and considered and then dismissed on merits. That is not the case here. The impugned order *prima facie* therefore does not stand to test and in view of the provisions of Section 154-2(A) of the said Act, it deserves to be quashed and set aside comprehensively. As such, the order dated 26.10.2023 is quashed and set aside and Revision Application filed under Section 154 of the said Act is remanded back

for a fresh hearing before the Revisional Authority with a direction that the Application dated 15.03.2023 filed by the Petitioners shall be considered by the concerned Revisional Authority and decision thereon shall be taken in accordance with law. It is clarified that the Revisional Authority shall not be influenced by any of the observations in its order and determine the Revision Application of the principal borrowers strictly in accordance with law and pass a reasoned order on merits after hearing the Petitioners within eight weeks from today.

6. With the above direction, Writ Petition is disposed.

7. Parties to act on an authenticated copy of this order.

[MILIND N. JADHAV, J.]

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