

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13727 OF 2024

Mahatma Sahakari Griharachana Sanstha ...Petitioner
Maryadit Through Its Secretary S.D. Kale

Versus

Kantilal Chandrakant Bankar & Ors ...Respondents

Mr. Kuldeep V. Nikam, for the Petitioner.

Mr. Harshad A. Sathe, for Respondent Nos.1 & 2.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : DECEMBER 15, 2025

Oral Judgement :

1. Rule. By consent of parties, made returnable forthwith and taken up for final hearing and disposal.

2. This Petition impugns an order dated April 26, 2024 ("**Impugned Order**"), by which the Learned Co-operative Court, Pune has permitted the signing and verification of the amended plaint by Respondent Nos.1 and 2 while disposing of an Application dated February 7, 2024.

3. The factual matrix falls within a narrow compass. Respondent Nos.1 and 2 had raised a dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960 ("**Co-operative Societies**

Act”) in November 2011. The dispute raised by these Respondents was allowed, but on Appeal it was remanded back to the Co-operative Court in 2016. The order of remand itself provided for amendments to be made to the plaint. It is common ground that the original plaint in the dispute had been signed and verified by Respondents No. 1 and 2 (“*Relevant Respondents*”), but when the amendment was effected, the amendment was verified and signed by the Advocates for the Relevant Respondents and not by the Relevant Respondents themselves. This is the bone of contention in this Petition.

4. The written statement filed in response to the amended plaint is claimed by advocates for the Relevant Respondents, as not having raised any objection to the amendment not being signed by the Relevant Respondents, and having been signed only by their advocates. However, the Petitioner raised these issues in the course of the proceedings, and in the process of cross-examination, it was sought to be established that the amended plaint was signed only by the Advocates for the Respondents and not by the Relevant Respondents, thereby undermining the claim.

5. To put an end to this controversy, an Application was made by the Relevant Respondents on February 7, 2024 seeking permission to

append their signatures to the amended plaint, so that this issue does not remain in controversy. This application was allowed in the Impugned order was passed essentially holding that the non-signing by the Relevant Respondents, although the signature was of their Advocates, is a procedural defect which does not cut to the substratum of the matter.

6. The Impugned Order permits these Respondents to append their signatures to the amended plaint. It cannot be forgotten that the original plaint had also been signed by the Relevant Respondents and not just by advocates. That dispute went in favour of the Relevant Respondents. The order of remand of the matter to the Co-operative Court, effected by the Learned Maharashtra State Co-operative Appellate Court, itself provided for amendments to be carried out if the parties so desired.

7. In my opinion, the Impugned Order essentially treats the objections raised by the Petitioner as a technical and procedural defects that do not cut to the root or the substratum of the matter on hand. In my opinion, this is a reasonable conclusion that does not call for interference.

8. Learned Advocate for the Petitioner submits that it has always been the Relevant Respondents' stance that there is no defect at all in the amended plaint, and therefore, he would submit, that going by their own showing, the finding in the Impugned Order, that the defects are technical and therefore curable, would not hold good. Instead, he would submit that this is a substantive foundational defect, that the amended plaint itself is not verified and signed, being a pleading of a party, and therefore, he would invoke Order VI Rule 14 of the Code of Civil Procedure, 1908 to indicate that the substratum of the pleading stands undermined.

9. Having heard the parties, I find that once the original dispute was validly affirmed and verified, which led to the dispute being allowed, and on appeal, the matter being remanded with the permission of the Appellate Court to effect desirable amendments for the Court below to deal with all the contentions of the parties, the situation at hand is not one where the substratum of the dispute would stand undermined by the Impugned Order. Evidently, the parties participated in the appellate proceedings and it is in the course of the appellate proceedings that the amendments came to be permitted. It is pursuant to such permission that the plaint was amended. Even if the written statement in response to such plaint did take up this issue, it would

stand to reason that the conduct of the proceedings would not stand vitiated or undermined by the Impugned Order permitting the Respondents to effect to append their signatures and verify the amended plaint, in view of the aforesaid context.

10. It is only the amendments that had necessitated a re-verification, and if the re-verification was treated as not having been done earlier and is now permitted, in my opinion, this would not be a fit case to take a view that the interests of justice stand undermined by permitting the signatures of the Relevant Respondents be appended.

11. Towards this end, judgment of the Supreme Court in ***United Bank of India v. Naresh Kumar And Others***¹ is instructive and is extracted as under:

9. *In cases like the present where suits are instituted or defended on behalf of a public corporation, public interest should not be permitted to be defeated on a mere technicality. Procedural defects which do not go to the root of the matter should not be permitted to defeat a just cause. There is sufficient power in the courts, under the Code of Civil Procedure, to ensure that injustice is not done to any party who has a just case. As far as possible a substantive right should not be allowed to be defeated on account of a procedural irregularity which is curable.*

10. *It cannot be disputed that a company like the appellant can sue and be sued in its own name. Under Order 6 Rule 14 of the Code of Civil Procedure a pleading is required to be signed by the party and its pleader, if any. As a company is a juristic entity it is obvious that some person has to sign the pleadings on behalf of the company. Order 29 Rule 1 of the*

¹ (1996) 6 Supreme Court Cases 660

Code of Civil Procedure, therefore, provides that in a suit by or against a corporation the Secretary or any Director or other Principal Officer of the corporation who is able to depose to the facts of the case might sign and verify on behalf of the company. Reading Order 6 Rule 14 together with Order 29 Rule 1 of the Code of Civil Procedure it would appear that even in the absence of any formal letter of authority or power of attorney having been executed a person referred to in Rule 1 of Order 29 can, by virtue of the office which he holds, sign and verify the pleadings on behalf of the corporation. In addition thereto and dehors Order 29 Rule 1 of the Code of Civil Procedure, as a company is a juristic entity, it can duly authorise any person to sign the plaint or the written statement on its behalf and this would be regarded as sufficient compliance with the provisions of Order 6 Rule 14 of the Code of Civil Procedure. A person may be expressly authorised to sign the pleadings on behalf of the company, for example by the Board of Directors passing a resolution to that effect or by a power of attorney being executed in favour of any individual. In absence thereof and in cases where pleadings have been signed by one of its officers a corporation can ratify the said action of its officer in signing the pleadings. Such ratification can be express or implied. The court can, on the basis of the evidence on record, and after taking all the circumstances of the case, specially with regard to the conduct of the trial, come to the conclusion that the corporation had ratified the act of signing of the pleading by its officer.

11. *The courts below could have held that Shri L.K. Rohatgi must have been empowered to sign the plaint on behalf of the appellant. In the alternative it would have been legitimate to hold that the manner in which the suit was conducted showed that the appellant-Bank must have ratified the action of Shri L.K. Rohatgi in signing the plaint. If, for any reason whatsoever, the courts below were still unable to come to this conclusion, then either of the appellate courts ought to have exercised their jurisdiction under Order 41 Rule 27(1)(b) of the Code of Civil Procedure and should have directed a proper power of attorney to be produced or they could have ordered Shri L.K. Rohatgi or any other competent person to be examined as a witness in order to prove ratification or the authority of Shri L.K. Rohatgi to sign the plaint. Such a power should be exercised by a court in order to ensure that injustice is not done by rejection of a genuine claim.*

12. *The courts below having come to a conclusion that money had*

been taken by Respondent 1 and that Respondent 2 and the husband of Respondent 3 had stood as guarantors and that the claim of the appellant was justified it will be a travesty of justice if the appellant is to be non-suited for a technical reason which does not go to the root of the matter. The suit did not suffer from any jurisdictional infirmity and the only defect which was alleged on behalf of the respondents was one which was curable.

[Emphasis Supplied]

12. The aforesaid ruling would provide guidance on the approach to holding the Impugned Order to be unworthy of interference. The pleader of the Relevant Respondents executed the amendments. He indeed had implied authority. The amendments themselves had already been permitted by the appellate forum. To disallow them on the premise that the Relevant Respondents did not sign them despite having been permitted by the appellate forum and despite the attorney with authority having signed them, clearly falls in the realm of a technical defect, which is capable of cure without doing any injustice to the Petitioner. It would be necessary to bring focus on the substance of the dispute and the curing of this defect would further the cause of justice instead of expending precious judicial time in adjudicating implications of absence of signatures on a pre-permitted amendment.

13. Learned Advocate for the Petitioner relies upon a judgment of a Learned Single Judge of this Court in *A-1 Co-operative Housing*

*Society Ltd. v. M/s R. Jaikishan and Co. and others*² and in particular paragraph 9 thereof:-

9. The position that emerges from the above discussion is that in the absence of a specific provision in the Act and the Rule regarding amendment of the pleadings the principles of Civil Procedure Code in that regard will have to be applied and the Co-operative Courts should allow an amendment of the dispute under section 91 of the Act or the written statement if it is necessary for the purpose of determining the real question and controversies between the parties. Avoidance of multiplicity of the proceedings is also one of the relevant considerations. While allowing the amendment the Courts will have to bear in mind that it is not altering the terms of reference/dispute or it is not touching the substratum of the dispute to be adjudicated under section 91. The power of allowing or rejecting the amendment can be exercised at any stage of the proceedings, depending upon the facts in each matter, in accordance with the guidelines laid down by the High Courts and Supreme Court in the various judgments. It is true that the amendment cannot be claimed as a matter of right and in all circumstances. But it is equally true that the Courts while deciding such prayers shall not adopt hypertechnical approach.

[Emphasis Supplied]

14. In the instant case, the appellate court permitted the amendment. That was not challenged in a higher forum, and therefore attained finality. The controversy is not about whether the amendment is being permitted on significant material facet and such permission is being challenged. What is being challenged is the permission granted to append signatures of a pre-permitted amendment purely on the facet of

the absence of signatures deterring from focus on the substantive merits.

15. In my opinion, even a reading of the aforesaid paragraphs would indicate that if the Court was of the view that the real question in controversy between the parties needs to be determined and to avoid multiplicity of proceedings, an amendment were to be allowed, provided that altering of the terms of reference of the disputes does not take place, the power of allowing or rejecting the amendment can be exercised at any stage of the proceedings. In my opinion, all that the Impugned Order has done, is allowed the Respondents to append their signatures to the amended dispute ,while they had in any case pleaded and verified the original dispute. In these circumstances, this judgment too is not of any avail in allowing the Petition.

16. In these circumstances, in my opinion, no case is made out for interfering with the Impugned Order. The proceedings shall continue undisturbed, without any interference from this Court.

17. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]

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