MPB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4866 OF 2025

Vasantraj Co-operative Credit Society Ltd. … Petitioner

V/s.

Vinod Gautam Pardeshi and Ors. … Respondents

WITH

WRIT PETITION NO. 4867 OF 2025
WITH

WRIT PETITION NO. 4875 OF 2025
WITH

WRIT PETITION NO. 4872 OF 2025
WITH

WRIT PETITION NO. 4961 OF 2025
WITH

WRIT PETITION NO. 4874 OF 2025

Mr. Rajesh Parab for the petitioner in all writ petitions.

Mr. Hamid Mulla, AGP for the State – Respondent Nos. 4 & 5 in Writ Petition No.4866 of 2025.

Mr. P. G. Sawant, AGP for the State – Respondent Nos. 4 & 5 in Writ Petition No.4867 of 2025.

Ms. M. S. Shrivastava, AGP for the State – Respondent Nos. 4 & 5 in Writ Petition No.4875 of 2025.

Ms. S. D. Chipade, AGP for the State – Respondent Nos. 4 & 5 in Writ Petition No.4872 of 2025.

Mr. P. V. Nelson Rajan, AGP for the State – Respondent Nos. 4 & 5 in Writ Petition No. 4961 of 2025.

Ms. Savina R. Crasto, AGP for the State – Respondent Nos. 4 & 5 in Writ Petition No. 4874 of 2025.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 3, 2025

P.C.:

1. Rule. Rule is made returnable forthwith.

2. All these petitions raise the same question. There is no need to decide them separately. A single judgment will therefore govern all of them.

3. The petitioner is a Co operative Credit Society. It granted loans to Respondent Nos. 1 to 3. The borrowers executed all documents required for sanction and disbursement of the loan. The borrowers defaulted. The petitioner then invoked Section 101 of the Maharashtra Co operative Societies Act 1960 and sought a recovery certificate. In the first round, the Deputy Registrar rejected the request by order dated 19 July 2021. He held that the documents filed by the society did not prove the amount claimed. He also noted the difficulty in conducting a regular inquiry during the period of the Covid 19 pandemic. On these grounds he refused to issue the certificate.

4. The petitioner challenged the said order by filing a revision. The Revisional Authority allowed the revision on 16 January 2023. It found that the documents relied upon by the borrowers were unrelated to the loan in question. It therefore remanded the matter to the Deputy Registrar with a direction to decide the proceedings afresh.

5. After remand, the Deputy Registrar heard the parties. The borrowers raised a defence that the matter involved disputed questions of law and fact. They alleged that the accounts of the society were not properly maintained. They pointed out suspicious entries in the statement of account. They objected to the documents relied upon by the society as they were not supported by a certificate under Section 65B of the Indian Evidence Act. On these grounds they sought a direction to relegate the society to a dispute under Section 91 of the Act.

6. The Deputy Registrar dealt with the objections. He recorded that the society had proved the loans that were sanctioned. He found that the mortgage deeds were duly executed. He noted that the loan amount was disbursed by cheque and that the borrowers received it. He also held that the documents and account extracts produced by the society made it possible to ascertain the exact dues. He therefore issued the recovery certificate against Respondent Nos. 1 to 3.

7. The borrowers challenged the certificate by filing a revision. The Revisional Authority held that the disbursement of the loan amount into the savings accounts of the borrowers was contrary to the policy in force. It noted that the borrowers had fixed deposits with the society. Despite this, the society charged interest without considering the existence of the fixed deposits. It therefore concluded that there was no compliance with Rule 86 clauses (a) to (f).

8. The legal position on when the Deputy Registrar may decline to act under Section 101 and direct the parties to a dispute under Section 91 now stands clarified. This Court in *Pimpri Chinchwad Sahakari Bank Maryadit versus Arun Namdeo Pote decided on 21 November 2025* has examined this issue in detail. In paragraph numbers 36 to 48 of that judgment, the Court explained the scope of the Deputy Registrar's powers. It held that relegation to Section 91 is an exception. It is permitted only when the defence raised by the borrower goes to the root of the transaction and shows a genuine dispute requiring a full adjudication. The Court cautioned that Section 101 is a summary remedy intended to aid recovery of dues that stand admitted or are capable of ready verification from the records of the society. The authority must therefore examine whether the objections raised are substantial or raised only to delay repayment.

9. Applying these principles, I find that the defence of the borrowers and guarantors does not meet the standard laid down by this Court. The objections raised by them relate to routine issues of account maintenance or to entries described as suspicious without any supporting material. Such objections do not convert a straightforward loan recovery into a disputed matter within the meaning of Section 91. The Deputy Registrar had already verified the documents. He had recorded a clear finding that the loan was sanctioned and disbursed and that the dues could be ascertained from the material on record. In these circumstances the Revisional Authority ought to have decided the revision on merits. It was not justified in bypassing its duty by invoking Section 91.

10. The matter therefore requires correction. The following order is passed.

(i) Rule is made absolute in terms of prayer clause (b) and the proceedings are remitted to the Revisional Authority. It shall decide the revision filed by the respondents on merits after giving due opportunity of hearing to all contesting parties.

(ii) The dispute has remained pending for a considerable period. The Divisional Joint Registrar Co operative Societies Konkan Division Navi Mumbai shall dispose of the revision within three months from today.

11. The writ petitions stand disposed of. No costs.

(AMIT BORKAR, J.)