Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15431 OF 2025

The Rajdeep Cooperative
Credit Society Ltd. Through
Authorised Officer & Anr. … Petitioners

V/s.

Milind Shripad Chandurkar & Ors. … Respondents

Mr. Pradeep Gole, for the Petitioners.

Mr. Abhishek C. Bhadang, AGP for the State – Respondent Nos.2 to 4.

Mr. Vaibhav Sugdare i/b Mr. Ravi Kadam, for Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 25, 2025

P.C.:

1. The petition arises from proceedings under Section 101 of the Maharashtra Cooperative Societies Act, 1960. The Registrar passed an order on 31 March 2023 issuing a recovery certificate for ₹35,67,970 with interest. Respondent No. 1 questioned this certificate by filing a revision under Section 154 of the Act. The Revisional Authority, through the impugned order, held that Respondent No. 1 had deposited the entire amount and therefore could not be treated as a defaulter. The petitioner challenges this finding in the present proceedings.

2. Counsel for petitioner No. 1 Society submits that the Revisional Authority relied upon deposits made in four separate accounts which belong to the wife and brother of Respondent No. 1. He states that certain amounts have been adjusted by the Society towards loan accounts of third parties. He submits that only ₹12.50 lakh stands credited to the loan account which is the subject of the certificate under Section 101. He argues that in the absence of a deposit of at least fifty percent of the recoverable dues as required under Section 154(2)(a) of the Act, the Revisional Authority had no jurisdiction to entertain the revision.

3. Counsel for Respondent No. 1 disputes these contentions. He submits that the total deposits made by Respondent No. 1 are higher than the amount stated in the recovery certificate. He points out that the certificate amount is around ₹36 lakh with interest while the deposits exceed ₹45 lakh. He submits that the Society has no authority to divert or adjust the borrower's deposits towards other loan accounts. He contends that the deposits must be treated as made towards the loan account which forms the subject of the Section 101 certificate and the Revisional Authority has rightly proceeded on that basis.

4. After considering the submissions, I find that the Revisional Authority ought to have first addressed a foundational issue. The Authority was required to determine whether the sums deposited by the borrower could lawfully be taken by the Society towards other loan accounts and, if permissible, to specify the legal basis and conditions for such appropriation. This issue goes to the root of the matter. Only after arriving at a clear finding on this point could the Authority examine whether the borrower had complied with the statutory requirement of depositing fifty percent of the recoverable dues under Section 154(2)(a) of the MCS Act. The satisfaction of this requirement is a condition precedent to the maintainability of the revision. The absence of such an enquiry has affected the correctness of the decision. In these circumstances, it is appropriate to remit the matter to the Revisional Authority for a fresh and proper adjudication. The Authority shall examine whether the deposits made by Respondent No. 1 satisfy the loan account forming the subject of the certificate under Section 101.

5. In view of the above, the following directions are issued.

(i) The Revisional Authority shall provide a fair opportunity of hearing to both sides. The Authority shall decide the question of appropriation of deposits on the basis of the material produced by the parties.

(ii) The parties shall remain present before the Revisional Authority on **8 December 2025 at 10.30 a.m**.

(iii) Upon undertaking the above exercise, the Revisional Authority shall pass a reasoned order on the revision application. The order shall be made after verifying compliance with the requirement under Section 154(2)(a) of the MCS Act. This exercise shall be completed within three months from the date on which the parties appear.

6. The writ petition stands disposed of in above terms.

7. No order as to costs.

(AMIT BORKAR, J.)