



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.5065 OF 2018

PETITIONERS
ORG. RESP NO.1

: Yavatmal Zilla Parishad Karmachari Sahakari Pat Sanstha Maryadit, Yavatmal, Registration No. 109, Having its office at Godhni Road, Yavatmal, Tahsil & Distt., Through its General Manager Shri Vasant Sitaramji Rathod, Resident of Yavatmal.

...VERSUS...

RESPONDENTS

1. Shri Vasant Shivramji Raut, Aged about 56 years, Occu.- Service, Resident of Wadgaon Road, Yavatmal, Tahsil & Distt Yavatmal, Shanti Nagar. No.1, Wadgaon Grampanchayat, Yavatmal
2. Shri Prabhakar P. Jevane, Aged about Major, Occu.- Service, Resident of Panchayat Samiti, Kalamb, Taluka- Kalamb, Distt. Yavatmal. **Dismissed**
The petition dismissed against respondent No.2 vide Registrar (J) order dt. 30/8/2019
3. Shri Sudhakar Ramteke, Aged about Major, Occu.- Service, Resident of C/o Mahila Bal Kalyan Vibhag, Panchayat Samiti Yavatmal, Tahsil & Distt- Yavatmal.
4. Vinayak Bhavik, Aged about Major, Occu.- Service, Working as Up Abhiyanta, Zilla Parishad Pani Purvatha Up Vibhag No.1, Yavatmal, Tahsil & Distt- Yavatmal **Deleted**
Delete the name of R.No 4 as per Court's order Dt 20/02/19

WITH
WRIT PETITION NO.7211 OF 2018

PETITIONERS
ORG. RESP NO.1

: Yavatmal Zilla Parishad Karmachari Sahakari Pat Sanstha Maryadit, Yavatmal, Registration No. 109, Having its office at Godhni Road, Yavatmal, Tahsil & Distt., Through its General Manager Shri Vasant Sitaramji Rathod, Resident of Yavatmal.

...VERSUS...

RESPONDENTS
ORG.APPELLANT

1. Shri Shankar Mahadevrao Naktode, Aged about 56 years, Occu.- Service, Resident of Morya Nagar, Lohara, Near Idea Tower, Tahsil & Distt Yavatmal
2. Shri Ramchandra Champatrao Saulkar, Aged about Major, Occu.- Service, Resident of Surji Nagar, Pimpalgaon Road, Yavatmal Tahsil & Distt.- Yavatmal.
Deleted the name of R. No.2 as per Court's order Dt 18/10/2019 & 10/02/2021
3. Shri Rajendra Shankarrao Nerale, Resident of government high school , Quarter no.7 Yavatmal.
Supplied correct Add. of. R. No.3 as per Court's order Dated 18/10/2019 & 10/02/2021

WITH
WRIT PETITION NO.7931 OF 2018

PETITIONERS
ORG. RESP NO.1

: Yavatmal Zilla Parishad Karmachari Sahakari Pat Sanstha Maryadit, Yavatmal, Registration No. 109, Having its office at Godhni Road, Yavatmal, Tahsil & Distt., Through its General Manager Shri Vasant Sitaramji Rathod, Resident of Yavatmal.

...VERSUS...**RESPONDENTS**
ORG.APPELLANT

1. Shri Devidas Gomaji Kamble, Aged about 55 years, Occu.- Service, Resident of Borgaon, Post Sawyer, Tahsil- Babulgaon, Distt Yavatmal.
2. Shri Mahadev Devrao Madavi, Aged about Major, Occu.- Service, Resident of /PO : Borgaon (Bhilwada), Tahsil -Babulgaon , District – Yavatmal.
Supply correct Add. of R. No.2 as per Court's order Dated 18/10/2019 & 10/2/2021
3. Shri Dadarao Sinraji Waghmare, Aged about Major, Occu.- Service, Resident of C/o Zilla Parishad Bandkam Up Vibhag No.1, Yavatmal, Distt. Yavatmal
Deleted the Name of R. No.3 as per Court's order Dt 18/10/2019 & 10/02/2021
4. Up Abhiyanta, Zilla Parishad, Bandkam Up Vibhag No.1, Yavatmal, Tahsil & Distt- Yavatmal.

WITH**WRIT PETITION NO.7750 OF 2018****PETITIONERS**
ORG. RESP NO.1

- : Yavatmal Zilla Parishad Karmachari Sahakari Pat Sanstha Maryadit, Yavatmal, Registration No. 109, Having its office at Godhni Road, Yavatmal, Tahsil & Distt., Through its General Manager Shri Vasant Sitaramji Rathod, Resident of Yavatmal.

...VERSUS...**RESPONDENTS**
ORG. APPELLANT

1. Shri Sudhakar Sahadev Kewat,, Aged about 50 years, Occu.- Service, Resident of Borgaon, Yavatmal, Tahsil- Babulgaon, Distt Yavatmal.

2. Shri Uttam S/o Manikrao Bhende, Aged about Major, Occu.- Service, Resident of C/o Zilla Parishad Bandkam Up Vibhag No.1, Yavatmal, Taluka & Distt.- Yavatmal.
Deleted the name of R. No.2 & 4 as per Court's order Dated 18/10/2019 & 10/02/2021
3. Shri Sudhakar B.Rathod, Aged about Major, Occu.- Service, Resident of C/o Panchayat Samiti, Ghatanji, Taluka- Ghatanji, Distt. Yavatmal.
4. L.R. Waghmare, Aged about Major, Occu.- Service, Working as Up Abhiyanta, R/o C/o Up Abhiyanta, Zilla Parishad, Bandkam Vibhag No.1, Yavatmal, Tahsil and Distt- Yavatmal.

Mr. S.K. Tambde, Advocate for the Petitioners in all these petitions.
Mr. S.S. Ansari, Advocate for the Respondent No.1 in WP No.5065/2018.
Mr. G.L. Agrawal, Advocate for the Respondents in WP No.7211/2018.
Mrs. S.S. Gadhawe, Advocate for the Respondent No.4 in WP No.7931/2018.

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 20/11/2025

ORAL JUDGMENT :

1. Heard. Rule. Rule made returnable forthwith. The petition is heard finally with the consent of the learned Counsels for the respective parties at the stage of admission.
2. In all these petitions, the petitioner is challenging the orders dated 30.11.2017 passed by the Maharashtra State Co-operative Appellate Court, Mumbai in Appeal No.42/2017, Appeal No.43/2017, Appeal No.44/2017 and Appeal No.51/2017.

3. The petitioner society filed a dispute under Section 91 before the Co-operative Court, Amravati, against the respondents/borrowers for recovery of the loan amount. The respondents/borrowers filed respective written statements except petitioner in Writ Petition No.7211/2018, before the Co-operative Court but denied borrowing any loan from the petitioner society. In Writ Petition No.7211/2018, the complaint proceeded ex-parte against the respondent. All these disputes came to be allowed.

4. Being aggrieved by the same, the respondents/borrowers filed respective appeals before the Co-operative Appellate Court and the said appeals came to be allowed directing the respondents/borrowers to pay the fresh loans obtained by them along with interest thereon, but it rejected the claim of petitioner society to the extent of older loans.

5. Learned counsel for the petitioner submits that the learned Appellate Court without considering that the promissory note was duly proved and there was existence of old loan in addition to the fresh loan, directed the respondents/borrowers to pay only the fresh loans, despite acceptance of liability by respondents/borrower. The claim of petitioners with respect to the old loan was not considered. Therefore, he submits

6

that the Appellate Court instead deciding the matters ought to have remanded to the learned Co-operative Court.

6. Per contra, learned counsels for the respondents/borrowers submit that the petitioner society had not placed on record any document regarding the old loan and relied upon promissory notes only. He further submits that the respondents/borrowers had denied to have any outstanding older loans and claimed that those were already paid. As there were no outstanding old loans, the Appellate Court rightly considered the matter. He further submits that pursuant to the order passed by the Learned Appellate Court, respondents/borrowers paid the entire amount of fresh loans along with the interest.

7. Having heard the learned counsel for the respective parties, it transpires that the petitioner disputant had sanctioned the loans in favour of borrowers and while sanctioning the loans the promissory notes were executed by the respondents/borrowers. There was a specific reference on those promissory notes about fresh loans and the older loans and those promissory notes were signed by the respondents/borrowers. These very documents were considered by the Learned Co-operative Court and resultantly, the petition came to be allowed.

8. The Learned Appellate Court allowed the appeals but restricted its finding only to the fresh loan, but on perusal of promissory notes it depicts that there were earlier loans too. Only because the record relating to old loans was not placed before the Learned Co-operative Court, it has not considered the contention of the petitioner society about the existence of older loans.

9. In WP No.7211/2018, the dispute proceeded ex-parte against the borrowers. Whereas, in WP No.5065/2018, WP No.7931/2018 and WP No.7750/2018 written statements were filed.

10. Thus, it transpires that the petitioner society had not placed any documents regarding the old loans. As the Co-operative Appellate Court has not considered the fact of old loans, therefore, I am of the opinion that the matters need to be remitted back to the Co-operative Court to decide them afresh.

11. Hence, I pass the following order :-

ORDER

A) The Writ Petition Nos.5065/2018, 7211/2018, 7931/2018, 7750/2018 are **allowed**.

B) Orders dated 30.11.2017 passed by the Maharashtra State Co-operative Appellate Court, Mumbai in Appeal No.42/2017, Appeal No.43/2017, Appeal No.44/2017 and Appeal No.51/2017 are quashed and set-aside.

- C) The disputes are restored to their original position.
- D) Respondent No.1 in Writ Petition No.7211/2018 is permitted to file written statement on record.
- E) As the disputes are of the year 2015 and the same are being remanded back by this Court, the petitioner society shall not be entitled to receive interest from the date of filing of the disputes till today.
- F) Learned Co-operative Court to decide the matters on their own merits without being influenced by any of the orders passed by the Courts below including this Court.

All the points are kept open.

Rule is made absolute in above terms.

(SIDDHESHWAR S. THOMBRE, J.)