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

WRIT PETITION No. 4045/2024

PETITIONERS : 1. Mohd. Rizwan S/o Haji Ahmadbhai Fajlani,
Aged about 38 years,
Occupation : Business,
R/o Mubarak Nagar, Arni, Tah. Arni,
Dist. Yavatmal

2. Shabana Mohammad Jamil Malnas,
Aged about 32 years,
Occupation : Household,
R/o Mubarak Nagar, Arni, Tah. Arni,
Dist. Yavatmal

3. Rajendra S/o Nandkishor Jaiswal,
Aged about 47 years,
Occupation : Business,
R/o Arni, Tah. Arni, Dist. Yavatmal

Vs.

RESPONDENTS : 1. The Registrar General and Additional Commissioner & Special Registrar Co-operative Societies, Maharashtra State, Pune

2. The Divisional Joint Registrar of Co-operative Societies and Money Lending Amravati

3. The District Deputy Registrar, Yavatmal

4. The Assistant Registrar Money Lending & Assistant Registrar Co-operative Societies, Arni, Tal. Arni, Dist. Yavatmal

5 Manish S/o Marotrao Kaple,
Aged about 40, Occupation Agriculturist,
R/o Near Sandip Talkies, Yavatmal, Tah. and Dist. Yavatmal

6 Arvind S/o Digamber Karnewar, (Dead) through his legal heirs

6a) Usha Wd/o Arvind Karnewar
Aged about 70 years, occ. Household,
R/o Near Jain Sthanak, Old Arni Vasti, Arni, Tal. Arni, Dist. Yavatmal

6b) Uttam S/o Arvind Karnewar,
Aged about 45 years,
Occ. Tailoring,
R/o Near Date College, Yavatmal, Tal. & Dist. Yavatmal

6c) Ram S/o Arvind Karnewar,
Aged about 42 years, Occ. Private Service,
R/o Near Jain Sthank, Old Arni Vasti, Arni Tal. Arni, Dist. Yavatmal

6d) Anju W/o Ajay Rapartiwar,
Aged about 38,
Occupation : Household
R/o Champamanwadi, Yavatmal

7 Ajay S/o Sudhakar Rapartiwar,
Aged about 42, Occ. Agriculturist,
R/o Champanwadi, Yavatmal, Tah.
and Dist. Yavatmal

Mr. S.P. Bhandarkar, Advocate for Petitioners
Mr. S.V. Narale, AGP for Respondent Nos.1 to 4
Mr. N.G. Moharir, Advocate for Respondent No.5

CORAM: SACHIN S. DESHMUKH, J.

DATED : 11th AUGUST, 2025

JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. The challenge raised in the present petition is to the application presented by respondent No. 5 under Section 18 of the Maharashtra Money Lending and Regulation Act, 2014 (For short, Act of 2014), vis-a-vis, notice issued by the Assistant Registrar, Money Lending, Cooperative Societies, the designated authority under the provisions of the Act of 2014.

3. The respondent No.5, who was the original owner of the subject land executed sale deed in the year 2002 in favour of the respondent No.6 herein. Thereafter, the respondent No.6 executed sale deed in the year 2005 in favour of the petitioners herein. Before entering into the transaction the petitioners as a bona fide

purchasers issued a paper publication inviting objections, however, no objection was raised, even at the instance of respondent No.5. Thereafter, the petitioner No.2 executed sale deed in favour of the petitioner No.3 in the year 2010.

4. The respondent No.5, presented a complaint with the respondent No.4 authority in the year 2008 with an assertion that the loan was borrowed from the respondent No. 7 and towards loan amount, a sale deed was executed in favour of respondent No.6. While adjudicating the said complaint presented by the respondent No.5, the respondent No.4 declared that the transaction was effected in relation to money lending transaction with further finding that the money lending is without there being authorisation.

5. The order rendered by the respondent No.4, was subject matter of challenge in Writ Petition No. 3812/2008, before this Court. This Court allowed the petition, set aside the order of respondent no.4. Aggrieved by the same, the respondent no.5 presented Letters Patent Appeal, however, it was withdrawn subsequently.

6. Preceded by the same, the respondent no.5 presented Regular Civil Suit No. 31/2012, before the Civil Court, seeking declaration that the sale deed of the year 2002 executed in favour of respondent no.6 is illegal, same is dismissed. Thus, the issue which was taken

up by the respondent no.5 has attained finality in the proceedings those were commenced and eventually concluded under the provisions of the Bombay Money Lenders Act, 1946 (For short, Act of 1946) vis-a-vis proceeding before civil Court. Although the issue is in relation to the sale deed has attained finality, still the respondent No.5 presented the complaint in the year 2015, taking recourse to the amended provisions of the Maharashtra Money Lending (Regulation) Act, 2014 and Rules thereunder (For short, Act of 2014). Perusal of the notice indicates that the enquiry which was conducted in previous litigation under unamended Act, has been used for issuance of said notice, which is already quashed and set aside by this Court in Writ Petition No. 3812/2008, still acting in contravention of statutory mandate and in ignorance of the verdict of this Court, vis-a-vis, the Civil Court, notice is issued to the petitioner, which is subject matter of this petition.

7. The learned counsel for the petitioners has vehemently submitted it was not really open for the respondent No.5 to present the complaint on self same contention since the proceedings initiated under the unamended Act, has attained finality as the order of the competent authority was subject matter of challenge, which is set aside by this Hon'ble Court. It is further submitted by the counsel for the petitioners that apart from initiating the proceedings under

Section 13 under the unamended Act of 1946, after the order of this Court in Writ Petition No. 3812/2008, RCS No. 31/2012 was presented seeking declaration that sale deed executed by the respondent No.5 in the year 2002 is illegal. Even the Civil Court has dismissed the claim of the respondent No.5. Thus, the claim of the respondent No.5 is adjudicated by the competent authority as well as civil Court, the same is already negated, therefore, it was not open for the respondent No.5 to present complaint taking recourse of the amended Act of 2014. It is further submission that perusal of the complaint now presented does not disclose the earlier orders by which the claim in relation to sale deed of year 2002 of the respondent No.5 is rejected by this Court as well as by the Civil Court, it is further submitted that even the respondent No.4 was under statutory obligation to conduct an enquiry as is contemplated under Section 18 of the Act of 2014, which is not complied with therefore, filing of the complaint, vis-a-vis, eventual notice, relying on report in previous proceeding, is unsustainable in law as such, is liable to be quashed and set aside.

8. Per contra, Mr. Moharir, learned counsel for the respondent No.5 submitted that the authority is justified while issuing notice since the petitioners herein have acted in contravention of the provisions of the Act of 2014. The contentions raised in the

application are considered in its proper perspective by the respondent No.4 while issuing the notice. It is further contention of the counsel for the respondent No.5 that the provisions of the amended Act are more comprehensive than the unamended Act, therefore, the respondent No.5 is justified in presenting the complaint in the wake of the Act of 2014.

9. Having considered the rival submissions, it is matter of record that the sale deed is of the year 2002 executed by the respondent No.5 in favour of respondent No.6. Thereafter, the petitioners have purchased these properties and are the bona fide purchasers, necessary paper publication was issued inviting objections before execution of sale deed, to which no objection was ever raised by the respondent no.5. Nevertheless, fact remains that the respondent No.5 had initiated the proceedings under the provisions of the Act of 1946. The said application was adjudicated by the respondent No.4 and a consequential order dated 30.05.2008, was rendered holding that the sale transaction in favour of the respondent No.6, vendor of the petitioner Nos.1 and 2 herein that is money lending transaction. The order rendered by the competent authority under the provisions of the Act of 1946, was subject matter of challenge in Writ Petition No. 3812/2008, is allowed by this Court, setting aside the order rendered by the authority. The said order was challenged in LPA,

which came to be eventually withdrawn. As such, the order has attained finality.

10. Respondent No.5, opted to present RCS No. 31/2012, seeking declaration that the sale deed in favour of the vendor of the present petitioner nos.1 and 2, however, the said suit came to be dismissed in the year 2021.

11. It is thereafter the recourse is to Section 18 of the Act of 2014, without there being candid disclosure of sequence of events in detail those have taken place in clear and unequivocal terms amounts to suppression on the part of the respondent No.5. Although it was incumbent upon the respondent No.5 to make candid disclosure of every event initiated by the respondent No.5 in relation to sale deed of year 2002, however withholding sane, Suppression which is regarded as fraud, deflects the course of judicial proceedings or if anything is done with / or the same interferes with the administration of justice, such persons are required to be properly dealt with, not only to punish them but also to others indulging in similar act which shake the faith of people in administrative justice. The stream of administrative justice has to remain unpolluted so that the purity of the Court's atmosphere may give vitality to all the organs of the State. Status of judicial firmament are, therefore, required to be well taken care of to maintain purity of Courts

proceedings so also to enable to administer administrative of justice fairly to the satisfaction of the all concerned. Thus, the importance of making material statement and setting forth the grounds in application, it was incumbent upon the respondent No.5 to make candid disclosure of the sequence of events those have taken place before filing of the application in the year 2015, taking recourse to the amended provisions of the Act of 2014.

12. Perusal of application presented by the respondent No.5 establishes respondent No.5 has consciously chosen to withhold the vital events such as finality attained in relation to the proceedings presented before this Court in Writ Petition No. 3812/2008, vis-a-vis, the dismissal of RCS No. 31/2012, as such, it amounts to suppression. While presenting application before respondent No.4. Thus having made a serious departure with obligation to make candid disclosure, same disentitles the respondent No.5 to claim any relief much less reliefs claimed in the application. Therefore, I am of the considered view that on account of non-disclosure on the part of the respondent No.5, the application deserves to be dismissed.

13. Equally it was obligatory for the respondent No.4 to undertake the necessary enquiry as contemplated under Section 18 of the Act of 2014, itself, however, relying upon the report in previous proceedings, which is already quashed, the impugned show

cause notice has been issued to the petitioners. Thus the respondent No.4 has also materially acted upon the irrelevant consideration and in ignorance of the statutory obligation casted upon it to undertake an enquiry. The impugned notice under challenge is, therefore, contrary to the statutory mandate, vis-a-vis, principles of doctrine of finality. The attempt on the part of the respondent No.5 is rather manifest that the proceedings those have attained finality are attempted to be reopened. The doctrine of finality of judicial asserts that a judicial decision, once final concludes the legal process. It prevents further appeal, new proceedings or challenges to facts already established and concluded by the Court. The principle of finality ensures legal certainty and stability is considered a cornerstone of any judicial system. Its foundation lies in the legal maxim, *"Interest reipublicae ut sit finis litium",* it is for the public good that there be an end of litigation. The principles of doctrine of finality are with an object to ensure that the finality is attained to the litigation and the same cannot be reopened in the manner as has been attempted to be done by the respondent No.5 by suppressing the orders of this Court, vis-a-vis, of the Civil Court, wherein the entitlement of the respondent No.5 is turned down by this Court as well as the Civil Court.

14. Admittedly, Section 56(3) of the Act of 2014, has saving effect, therefore, the proceedings those are concluded under the Prevention of Bombay Money Lenders Act, 1946 are served and those could not be reopened in any manner, much less as has been attempted to be done by the respondent No.5. When the action initiated under the unamended Act has attained finality there was no occasion for the respondent no.5 to have any fresh cause of action to initiate the enquiry on the self same set of facts on successive occasions taking recourse to new Act (amended). Saving clause has effect of saving concluded action's those were initiated under the unamended Act. Pertinently those are concluded, therefore, it was not open for the respondent No.5 to initiate the proceedings as has been done by presenting the application before the respondent No.4 taking recourse to the amended Act. Thus the effect of saving clause is attempted to be breached and contravened by the respondent No.5 and in the process the respondent No.4 has also in a casual and mechanical manner and has entertained the complaint presented by the respondent No.5 and issued notice in equally causal manner under challenge is, therefore, initiation of the proceedings under the amended Act and issuance of notice and consequential orders is unsustainable. Accordingly the impugned complaint, notice and consequential order under challenge are

unsustainable and therefore liable to be quashed. As such, same is hereby quashed and set aside.

15. Thus, in the light of the aforesaid peculiar facts and circumstances, the petition deserves to be allowed. Accordingly, the petition is allowed.

Rule is made absolute in the above terms of prayer clause.

(SACHIN S. DESHMUKH, J.)

MP Deshpande