IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

959 WRIT PETITION NO. 6154 OF 2024

SAMPADA NAGARI SAHAKARI PATSANSTHA LTD THROUGH ITS SPECIAL RECOVERY OFFICER AND ANOTHER
*VERSUS*
THE DIVISIONAL JOINT REGISTRAR CO OPERATIVE SOCIETIES AND OTHERS
...
Mr. V. H. Dighe, Advocate for the Petitioners
Mr. A. V. Lavte, AGP for Respondent-State
Mr. R. K. Temkar, Advocate for Respondent Nos.3 and 4
Mr. S. S. Wagh, Advocate for Respondent No.5
Mr. A. D. Ostwal, Advocate for Respondent Nos.6A and 6B

AND

960 WRIT PETITION NO. 6162 OF 2024

BALU RAMBHAU GUND
*VERSUS*
THE DIVISIONAL JOINT REGISTRAR AND OTHERS
...
Mr. S. S. Wagh, Advocate for the Petitioner
Mr. A. V. Lavte, AGP for Respondent-State
Mr. R. K. Temkar, Advocate for Respondent Nos.3 and 4
Mr. V. H. Dighe, Advocate for Respondent Nos.6 and 7
...

CORAM : AJIT B. KADETHANKAR, J.
DATED : 30th October 2026

FINAL ORDER :-

. Rule. Rule made returnable forthwith. By consent of the learned Advocates appearing for the parties, the matter is taken up for final disposal.

2. The petitioner-financial institution has taken exception to the judgment and order dated 22.05.2024 passed by respondent No.1 - the Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik in Revision Application No.179 of 2023. Substantive prayer clause (B) reads thus :

> "B. Issue writ of certiorari, or any other appropriate writ, order or direction for quashing the impugned judgment and order dated 22.05.2024 passed in Revision No.179/2023 passed by respondent No.1 Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik and for that purpose issue necessary orders."

3. This Court, after hearing all the stakeholders, passed a detailed order on 23.02.2026, which reads thus :

> "***In Writ Petition No.6154 of 2024***:-
>
> Respondent no.6 in this Writ Petition who is reported to be no more was the borrower/mortgager of the petitioeners. Since the borrower failed to repay the loan within time, the petitioners – Society instituted recovery proceedings taking recourse to Section 98 of the Maharashtra Co-operative Societies Act, 1960 ("the Act of 1960" for brevity). These proceedings were not challenged by the respondent no.6. On 12.03.2020 the petitioner – Society conducted auction of the mortgaged property and vide order dated 05.07.2021 the same was confirmed. These things were never challenged by respondent no.6 under Section 154 of the Act of 1960 which is a statutory remedy. Instead, respondent no.6 filed Writ Petition No.14220 of 2021 in this court. When the present petitioners/Society pointed out in the court that the petitioner therein had efficacious statutory remedy under Section 154 of the Act of 1960, even after giving option by the court to the petitioner therein, he chose to argue the matter on merit. After hearing the parties, this court vide its judgment dated 12.10.2023 pleased to dismiss the

Writ Petition No.14220 of 2021 on merit. Suffice it to note, no liberty was sought by the petitioner therein to take recourse to the statutory proceedings.

2. Thereafter, the respondent no.6 approached the Divisional Joint Registrar, Co-operative Societies, Nashik under Section 154 of the Act of 1960 challenging the confirmation letter dated 05.07.2021 and the auction sale. Suffice it to note, the deceased respondent no.6/revision petitioner mentioned in his pleadings that he had already filed Writ Petition and that was dismissed. After the deceased respondent no.6/petitioner appeared before the revisional authority it was candidly demonstrated that the prayer clause in the Revision Petition was the same which was prayer clause in Writ Petition No.14220 of 2021. It was submitted that since the matter has been finally decided by the High Court on merit, the revision petition was not maintenable nor it was open for the revisional authority to sit on the findings rendered by this court. However, even without discussing this aspect of the matter, the revisional authority passed the impugned order on 22.05.2024. As such the petitioner - society are before this Court vide this Writ Petition.

3. While the auction was conducted and the purchaser purchased the property, the sale confirmation letter was issued in the name of the purchaser. On the basis of the same, name of the purchaser also came to be mutated in the revenue record. However, consequent to the order passed by the revisional authority dated 22.05.2024, the revenue authority struck down the mutation recorded in the name of the purchaser. Thus, the purchaser of the auction property is also before this court vide another Writ Petition No.6162 of 2024.

4. Vide another order passed today in Civil Application No.11319 of 2024, it is observed that respondent no.6 – Bhanudas Narayan Bhagwat in Writ Petition No.6154 of 2024, who happens to be respondent no.5 in the other Writ Petition No.6162 of 2024, is reported to be dead and Mr.Abhay Ostwal, learned advocate marked his appearance through V.C. for the legal representatives said Bhanudas Narayan Bhagwat

5. For the reasons recorded above, it is evident that the Divisional Joint Registrar, Co-operative Society, Nashik has given utter disregard to the orders passed by this Court. While the subject matter of the revision petition was already adjudicated by this court in Writ Petition and while this fact has already been brought to the notice of the revisional authority also by the revision petitioner and the Society, the Divisional Joint Registrar committed deadly adventure to decide the issue again on merit.

6. Mr.Dighe and Mr.Adhav, learned

advocates appearing for the petitioners in the respective petitions submit that the interim order passed by the Divisional Joint Registrar is apparently contemptuous.
7. Within one week learned AGP undertakes to instructions from the concerned Divisional Joint Registrar and file his personal affidavit before the next date.
8. Mr.Ostwal, on instructions marks presence for legal representatives of the deceased – Bhanudas Narayan Bhagwat.
9. Stand over to 09.10.2026."

4. Today, Mr. A. D. Ostwal, learned Advocate for respondent Nos.6A and 6B advances his arguments. Mr. Ostwal submits that respondent No.1 has not committed any error in dealing with the revision under Section 154 of the Maharashtra Co-operative Societies Act, 1960. He firstly submits that respondent No.6 did not suppress from respondent No.1 the fact of the order passed by this Court in Writ Petition No.14220 of 2021.

5. However, the contention of Mr. Ostwal is that in view of the subsequent developments i.e. filing of the charge-sheet against the petitioner-financial institution, the revisional authority was justified in passing the impugned order.

6. He would then try to interpret the order passed by this Court particularly paragraphs 7 and 8 of the order dated 12.10.2023 passed in Writ Petition No.14220 of 2021. It is further contended that in view of the above, the writ petition

is devoid of merit and no interference is warranted. He submits that the remedy of revision is a statutory remedy.

7. Learned Advocate appearing for the petitioners submits that on the last occasion, it was pointed out to this Court that respondent No.6 although well aware of the orders passed under Section 101 of the Maharashtra Co-operative Societies Act, did not avail the remedies provided under the statute. He didn't agree with the submission that Section 154 is of statutory remedy. However, he points out that, in the last round of litigation itself, this Court had made a query with respondent No.6 as to why he should not avail the statutory remedy.

8. However, instead of approaching the appellate authority under Section 154, the said respondent represented before this Court that he waives such remedy and would proceed with the writ petition itself. On that basis, this Court heard the parties on all aspects of the matter.

9. That way, respondent No.6 voluntarily waived and surrendered his opportunity to challenge the proceedings under Section 154 or any other statutory provision available to challenge the order passed under Section 101 and the

consequential proceedings.

10. In the meantime, the subject-matter property was also auctioned, and the sale was confirmed. The purchaser is also before this Court assailing the order passed by respondent No.1 in Writ Petition No.6162 of 2024. The original respondent, who is no more, is now represented by respondent Nos.6A and 6B.

11. Respondent No. 1 - the Divisional Joint Registrar has filed an affidavit-in-reply. In paragraph 8 of the reply, he has admitted that he lost sight of the order passed by this Court in the subject matter. The relevant submission is reproduced for the sake of convenience as follows :

> *"8. I say and submit that, the Judgment and Order passed by this Hon'ble Court dated 12.10.2023 was placed before the deponent. When this Hon'ble Court has passed an order in a matter where the subject matter is the same, the authorities shall not proceed to pass an order on the same subject matter. In present matter, along with order dated 05.07.2021, which was subject matter of the Writ Petition, the order dated 12.03.2020 was also under challenge by way of Revision. The deponent lost its sight from the fact that the order dated 05.07.2021 is final outcome of order dated 12.03.2020 and under misconception, wrongly proceeded with the Revision Application."*

12. Thus, it is evident from the record that although respondent No.6 had disclosed the order passed by this Court in Writ Petition No.14220 of 2021, respondent No.1 committed a serious error in passing the impugned judgment and order.

13. Once this Court had disposed of the controversy in question by dismissing Writ Petition No.14220 of 2021 on merit, respondent No.1 ought not to have proceeded to deal with the revision on merits particularly in view of the directions and observations contained in the order passed by this Court. In fact, the impugned judgment and order itself not only become non east, but also amounts to contempt of the order passed by this Court.

14. Learned AGP points out that the said authority has also since superannuated.

15. It is also pertinent to note that since respondent No.6 has disputed the very existence of the loan documents, they could have taken recourse to Section 91 of the Maharashtra Co-operative Societies Act, 1960 by filing a dispute. However, respondent No.6 has not availed that remedy either.

16. It is trite law that a person cannot take undue advantage of his own wrong. In view of the above, I find that the petitioners have made out a case warranting interference by this Court under Article 227 of the Constitution of India.

17. In view of this, I pass the following order :

**O R D E R**

**WRIT PETITION NO.6154 of 2024**

I. The writ petition stands allowed.

II. The impugned judgment and order dated 22.05.2024 passed by respondent No.1 is quashed and set aside, and is held to be non est.

III. Rule is made absolute in the above terms.

**WRIT PETITION NO. 6162 OF 2024**

I. In view of the judgment and order passed by this Court in Writ Petition No.6154 of 2024, Writ Petition No.6162 of 2024 also stands allowed in terms of prayer clause (B).

II. The mutation entry effected in the name of the petitioner in Writ Petition No.6162 of 2022 which was cancelled in the light of the judgment and order passed by respondent No.1 shall stand restored.

III. Rule is made absolute in above terms.

**( AJIT B. KADETHANKAR, J. )**

PRW