

Dispute No. 102/2016.

Dispute Filed On : 31/05/2016

Dispute Register On : 31/05/2016

Dispute Decided On : 29/10/2018

Duration : Y. M. Days
02-04 - 29**IN THE COURT OF JUDGE, CO-OPERATIVE COURT AT AKOLA**

(Presided over by Shri B.S. Lakhote)

Buldhana District central co-op Bank
 Ltd. Buldhana, Branch Buldhan
 ,Through Manager
 Tah- & Dist- Buldhana

Disputant.

---- V/s ----

Zilla Van Karmchari Sah.pat Sanstha
 Ltd. Buldana, R.No.106
 Through last know Board Directors

- 1) P. M.Kedar
 Dalal Lay out Jijamata Nagar
 Plot no.105 Buldana
 Tq & Dist Washim
- 2) A.R. Wayal
 “Shivashray” behind Dr.Gode
 Hospital, Near Sundarkhed
 Grampanchayat, Sundarkhed
 Taq & Dist- Buldhana
- 3) A. R. Pawar
 Main Lekhapal Office, Deputy
 Forest office, Rani Bagicha, Buldana
 Tq& Dist- Buldana
- 4) T.D.Sawle
 Main Lekhpal Office, Deputy
 Forest office, Rani Bagicha, Buldana
 Tq & Dist- Buldana
- 5) P.K. Nagpure
 Main Lekhapal Office, Deputy
 Forest office, Rani Bagicha, Buldana
 Tq & Dist- Buldana

- 6) M.M. Tayade
Main Lekhapal office, Deputy
Forest office, Rani Bagicha, Buldana
Tq & Dist- Buldana
- 7) Malutai Ramkrushna Gadhe(Ingale)
Main Lekhapal Office, Deputy
Forest office, Rani Bagicha, Buldana
Tq & Dist- Buldana
- 8) Smt. Dwarkabai Parihar
Chetna Nagar, Sundarkhed
Tq & Dist- Buldana
- 9) N.G.Parve
R/o Jalgaon
Tq & Dist- Buldana
- 10) S.G.Pawar
Ekta Nagar, Buldana
Tq & Dist- Buldana
- 11) M.M.Walse
Vanparikshetra Office
Motala, Tq- Motala
Dist- Buldana
- 12) B.N.Rokde
R/o Ganesh Nagar
Tq & Dist- Buldana

..... **Opponents.**

Dispute For Recovery of Rs.38,65,077

/-.

Adv.R.R. Rathi for Disputant.
Opponents – Exparte.

J U D G M E N T

Brief facts of the dispute are as follows.

- 1) The Disputant is a bank registered under the M.C.S. Act. The opponents are board of director of the opponent society. according to the

information at present the opponent society is not in existence. The opponent through its board of directors from time to time obtained loan from the disputant bank and disbursed their member a loan.

2) The disputant sanctioned loan to the opponent society after completion of the formalities for disbursing to their members. The opponent have executed loan documents in favour of the disputant, the competent authority executed Hamipatra from time to time in favour of concerned members of the opponent society for deduction of monthly installment from the salary of the concerned members and depositing the same to the disputant.

3) The opponent society has not paid the loan or taken any step for recovery of loan from its members, hence the opponents are liable for the said loan. The disputant issued notice to the opponents on 19-09-2013, but they have not paid the amount.

4) The bank maintained the account of opponent society and as per the account as on 29-02-2016 amount RS.38,65,077/- including the interest is outstanding against the opponent society. Hence the disputant claim the amount Rs.38,65,077/-.

5) The opponents duly served the summons appeared but failed to file w.s. and no w.s. order passed against them.

In view of the pleading of the disputant following point arises for my determination and my finding with reasons are as follows.

POINT

Findings

(1) Does the disputant prove that opponents are liable to pay the loan amount Rs.38,65,077/- from 29-02-2016 till realization?.....

positive

(2) What order and award?

As per final order.

REASONS

6) **As to Point No.1 & 2 :** It is the case of disputant that the opponent society availed the loan facility but failed to repay the loan amount as per agreement. The disputant in order to establish its claim and to discharge the burden filed an affidavit of evidence on Exh.18 of Shri. Santosh Keshvrao Giri who deposed that the opponent society obtained the loan from time to time from the disputant bank. The deposition of the witness is nothing but the replica of dispute application.

7) **The** disputant in support to the oral evidence of witness relied on the loan documents loan bond, letter of acceptance of term and condition ,account extract . From these documents it reflect that the opponent society through its chairman and the secretary applied for loan to the disputant and from time to time obtained the loan amount , the opponents has not enter in to witness box and rebut the contention of the disputant the evidence of the disputant remain unchallenged. I hold that the opponent society is obtained loan.

8) The disputant claim the amount Rs.38,65,077/- and to prove this amount relied account statement . The account statement reflect the debit entries which shows that opponent society withdrawn the amount.. The account is properly maintained as whatever the transaction done by the opponent society. The amount Rs.38,65,077/- reflected at the end of 29/02/2016 . I have no reason to disbelieve on account statement as debit and credit entries are properly done. Hence, the disputant bank proved the amount Rs.38,65,077/- against the opponent society.

9) The disputant in the disputant and witness in the in the affidavit no where disclosed the rate of interest, but the documents loan bond indicate 16% p.a. interest., I have no reason to hold that the disputant is entitled for interest @ 16% p.a.

10) The disputant claimed amount against the all opponents ,it is contention of the disputant that the opponent no.1 to 12 are the director of the opponent society and opponent society availed loan for disbarment to its members. The document on record shows the signature of the chairman and secretary of the opponent society but the disputant has not make cleared as to who has signed the document as secretary and chairman of the opponent society. Whether signature on the documents are one of the opponents . not cleared from the pleading. The opponents being director of the opponent society their role only to the extend of passing resolution for applied to the disputant for loan and they acted for the opponent society not in individual capacity, hence they are not liable for the loan of the disputant , the opponent society is only liable for the loan.

In view of the above observation, I come to the conclusion that the disputant proved its case against the opponents and accordingly I proceed to pass the following order.

ORDER

- (1) The Dispute is hereby allowed with costs.
- (2) The opponent society through its authorized person shall pay
Rs. 38,65,077/- with interest @ 16% p.a. from 29/02/2016 till realization.
- (3) The dispute against the opponent no.1 to 12 dismiss.
- (4) Award be drawn accordingly.

Sd/-

At Akola
Dated : 29/10/2018

(Shri. B.S. Lakhote)
Judge,
Co-operative Court, Akola.

