

MHCA200000502026



EXHIBIT : **10**
 Received on : 17 – 02 - 2026
 Registered on : 17 – 02 - 2026
 Decided on : 04 – 05 - 2026
 Duration : Year Month Days
 00 – 02 – 17

THE MAHARASHTRA STATE CO-OP. APPELLATE COURT,
MUMBAI BENCH AT AURANGABAD.
(Before Smt. S. R. Pawar, Member)

Appeal No.34/2026.

(Arises out of the Judgment and Award dated 28.08.2024 passed by the Ld. Judge, Cooperative Court, Nanded in dispute bearing no.100/2024).

Anil Radhakishan Kawthekar,
 Age : Major, Occu : Business,
 R/o. Prabhu Pukar, Shivaji Nagar,
 Parbhani, Tq. & Dist. Parbhani.

..... Appellant.
(Orig. Opp. No.2)

VERSUS

- 1) Jankalyan Nagari Sahakari Patsanshta,
 Maryadit, Parbhani,
 Swa. Veer Sarwarkar Chowk, Vidya nagar,
 Parbhani.
 Through its Authorized Person,
 Bhaskar Prabhakar Rao Joshi,
 Age : 52 Years, Occu : Service,
 R/o. Parbhani, Tq. & Dist. Parbhani. (Orig. Disputant)
- 2) Sanjay Uttamrao Joshi,
 Age : 58 Years, Occu : Business,
 R/o. Pratibha Anand Nagar, Vasmat Road,
 Parbhani.

- 3) *Manohar Satwaji Ghorpade,*
Age : 40 Years, Occu : Business,
R/o. Ramkrushna Nagar, Vasmat Road,
Parbhani,
Tq. & Dist. Parbhani.

..... Respondents.
(Orig. Opp. Nos.2 and 3)

Mr. A.G. Pedgaonkar Ld. Advocate for the Appellant.

Mr. D. V. Katneshwarkar, Ld. Advocate for the Respondent no.1.

Mr. S. K. Chavan, Ld. Advocate for the Respondent no.2.

The Respondent no. 3 deleted being formal party.

AURANGABAD.
DATE 04.05.2026.

ORAL JUDGMENT

(Dictated and pronounced in the open court)

1) *Being aggrieved and dissatisfied with the exparte Judgment and Award dated 28.08.2024 passed by the Ld. Judge, Co-operative Court, Nanded, in dispute No.100/2024, the present appeal has been filed by the appellant, who was opponent No.2 before the Trial Court.*

2) *The original dispute was filed by respondent No.1 society herein against the respondent nos.2 and 3 as well as present appellant for recovery of an amount of Rs.3,75,486/- along with interest at the rate of 14% p.a. with quarterly rests from 01.05.2024 till realization of the entire claim amount.*

3) *By the impugned Judgment and Award, the said dispute was partly awarded and thereby the trial court ordered the*

respondent nos.2 and 3 as well as present appellant to pay the disputant jointly and severally an amount of Rs.3,75,486/- with interest at the rate of 14% p.a. on principal sum of Rs.2,00,000/- from 01.05.2024 till realization of claim amount along with cost.

4) In order to appreciate the correctness of the impugned Judgment and Award, it is necessary to briefly advert to the cause of action pleaded by the disputant/respondent No.1 society in its claim before the Trial Court.

The facts in nutshell are as under; (For the sake of brevity, the parties are referred to as per their status in the original dispute).

5) By filing the dispute, it is contended by the disputant that, it is a Co-operative Credit Society duly registered under the provisions of the Maharashtra Co-operative Societies Act, 1960, and all the opponents are its members. The opponent No.1 (respondent no.2 herein) had availed the loan of Rs.2,00,000/- on 08.02.2018 for the purpose of higher education of his daughter. The opponent no.2 (appellant herein) and the opponent no.3 stood as a guarantors for the aforesaid loan.

6) It is further contended that, considering the financial capacity of the borrower as well as his guarantors, the disputant society sanctioned the loan amount after execution of necessary loan documents. The agreed rate of interest was 14% p.a. with quarterly rests.

7) *It was further contended that, the loan was to be repaid within a stipulated period, and the opponents agreed that in case of default of three consecutive installments, the disputant society would be entitled to recover the entire outstanding loan amount in lump sum.*

8) *The disputant further averred that, after availing the loan facilities, neither the borrower nor his sureties repaid the loan installments as agreed, despite persistent demands from the society. The disputant society maintained the statement of loan account in the ordinary course of its business, and as per the statement of account, the opponents were liable to pay an amount of Rs.3,75,486/- as on 30.04.2024. It is further contended that, the disputant society issued demand notice to the opponents for repayment, but they failed to comply. Even the legal notice sent thereafter went unheeded. Hence, the disputant was constrained to file the dispute for recovery of the said dues.*

9) *The record of the Trial Court shows that, inspite of proper service of summons none of the opponents appeared before the trial court thus dispute proceeded ex parte against the opponents. As per the direction issued by the trial court the authorized officer of the disputant society has filed claim affidavit on record along with all the loan documents.*

In the light of claim affidavit and documentary evidence produced on record, the Ld. Trial court decreed the dispute as per the above mentioned judgment.

10) *Being highly aggrieved by the said judgment and award the present appeal has been filed by the appellant / opponent no.2*

contending that, “the judgment and award passed by the Trial court is not in accordance with the law, it suffers from serious infirmity. It is further contended that, the judgment is against the oral as well as documentary evidence produced on record by the respective parties and thus liable to be set aside”.

11) Pursuant to summons issued by this court, the respondent No.1/disputant society has appeared through Ld. Advocate Mr. D.V. Katneshwarkar. The respondent no.2 has appeared through Ld. Advocate Mr. S. K. Chavan. The name of respondent no.3 is deleted as per the pursis filed by the appellant.

12) Mr. S.K. Chavan Ld. Advocate for the respondent no.2 supported the case of appellant and urged for allowing the appeal.

13) Mr. D.V. Katneshwarkar Ld. Advocate for the respondent no.1 / disputant strongly resisted the appeal on various grounds. He has pointed out that, summons of dispute were duly served upon all the opponents. They willfully did not appear before the trial court and contest the matter on merits. There is no valid defence available to the appellant for which interference of this court is warranted and thus Mr. Katneshwarkar urged for dismissal of appeal.

14) Heard Ld. Advocate Mr. A.G. Pedgonkar for the appellant. Mr. D.V. Katneshwarkar for the Respondent no.1 and Ld. Advocate Mr. S. K. Chavan for respondent No.2.

15) Considering the pleadings of the disputant, the oral as well as documentary evidence produced on record, the reasons

assigned by the Ld. Trial Court in the impugned judgment, the grounds raised in the appeal memo, and after hearing the Ld. Advocates for the respective parties, the following points arise for my consideration. I record my findings thereon for the reasons given herein below:

POINT	FINDINGS
1) Whether the judgment and award passed by the trial court is in accordance with law ?	: Yes.
2) Whether interference of this court is warranted in the impugned judgment and award ?	: No.
3) What order and what relief ?	: As per final order.

REASONS

POINT NO.1 to 3:

As all the above mentioned points are interconnected with each other, discussed commonly.

16) Mr. Pedgaonkar Ld. Advocate for the appellant has submitted that, the judgment and award passed by the Ld. Trial Court is not in accordance with law. The appellant was not duly served with summons by the trial court and thus he could not appear before the court and contest the matter on merits. The appellant was not the beneficiary the suit loan transaction. The respondent no.2 is / was the beneficiary and he has committed the breach of condition as agreed

and instead of executing the award against the borrower i.e. respondent no.2 the disputant / respondent no.1 society is behind the appellant, for recovery hence, an opportunity of being heard needs to be given to the appellant and hence interference of this court is warranted.

17) Mr. S. K. Chavan Ld. Advocate for the respondent no.2 fairly admitted the fact that his client has availed the suit loan from the disputant / respondent no.1 society and for the said loan the Appellant as well as respondent no.3 stood as guarantors. He further submitted that, respondent no.2 is ready and willing to deposit the amount with the society. He needs breathing time for the said reason and thus the appeal filed by the appellant be allowed.

18) Mr. Katneshwarkar Ld Advocate for the disputant / respondent no.1 society has submitted that, in his appeal memo the appellant admitted the fact that, he stood as a guarantor to the loan availed by the respondent no.2. In view of section 128 of the Contract Act, the appellant being the guarantor is jointly and severally liable for repayment and there is no merits in any of the contention of the appellant. He willful did not appear before the trial court to contest the matter on merits inspite of proper service of summons. The judgment passed by the Ld. Trial court was passed after verifying the loan documents and thus interference of this court is not warranted.

19) While re-appreciating the case of the respective parties, I have gone through the trial court record and I find summons of dispute were duly served upon all the opponents. The society has produced on record the R.P.A.D. acknowledgment receipts at 'Exhibit 6 to 8'. Moreover, after minute perusal of the grounds raised by the

appellants in his appeal memo more particularly para 9, it is evident that, the appellant himself stated that, he has received the appearance notice from the trial court but it is his contention that, as he could not understand or no having legal knowledge he did not attend the court and matter remained uncontested. Thus, I do not find any force in the contention of appellant that he had not given an opportunity by the trial court to contest the matter on merits.

20) So far as the merits part of the matter is concerned, in para 4 and 5 of appeal memo the appellant in clear term admitted the fact that, “the respondent no.2 availed suit loan of Rs.2,00,000/- for the purpose of higher studies of his daughter and the appellants stood as a guarantor to the suit loan amount”. If it is so, in view of section 128 of the Indian Contract Act 1872, the liability of the appellant is coextensive along with the principal borrower. By signing the guarantee bond the appellant under taken the liability of repayment of loan in case of default committed by the borrower, and in that case, it is discretion of the creditor society to execute the award either against the borrower or from his sureties and thus the contention of the appellant that the award needs to be executed only as against the principal borrower i.e. respondent no.2 can not be accepted.

21) Apart from the above mentioned grounds no other ground raised by the appellant on merits for setting aside the judgment and award. Thus, I find even though the dispute was decided exparte by the trial court, as there are no meritorious ground available to the appellant, there is no need to remand the matter that to the trial court or to set aside the judgment and award. Indeed, the written admission given by the appellant in his appeal memo as well as the admission given by the respondent no.2 are sufficient to dismiss the appeal. The

appeal filed is devoid of any merits. Hence, needs to be rejected.

22) In this context, I have gone through the findings recorded by the trial court in its judgment, and I find the view taken by the trial court is in accordance with the law and interference of this court is not warranted.

23) In view of the above mentioned observations, I record my findings to point no.1 to 3 accordingly and following judgment is passed.

ORDER

- 1) Appeal bearing no.34 / 2026 is dismissed.
- 2) The parties to bear their own cost of appeal.
- 3) R & P sent back to the trial court.

Place : Aurangabad.

Date :- 4th May, 2026

(**Smt. S. R. Pawar**)
Member
Maharashtra State Cooperative
Appellate Court Mumbai
Bench Aurangabad.

Dictated and pronounced in the open Court.

Order dictated on	:	04.05.2026.
Order transcribed on	:	04.05.2026.
Order ready on	:	04.05.2026.