

**MAHARASHTRA STATE CO-OP. APPELLATE COURT MUMBAI, BENCH
AT AURANGABAD**

(Before Smt. S. R. Pawar, Member)

M.A. No.16 /2026

Pandit Dindayal Nagari Sahakari,
Patsantha, Ltd., Anandibajar,
Ahmednagar.

..... **Applicant.**

VERSUS

Keshav Bhausahab Kale,
Age : 52, Occu : Business,
R/o. Plot No.11A, Vidyut Amol Vihar,
Rasane nagar, Savedi,
Tq. & Dist. Ahilyanagar.

..... **Respondent.**

Mr. S. R. Andhale, Ld. Advocate for the applicant.
The respondent served noted absent marked exparte.

ORDER BELOW 'EXHIBIT 5'

1. Perused the Misc. Application along with documents attached thereto. Heard Ld. Advocates Mr. S. R. Andhale for the applicant. The respondent duly served noted absent.

2. Being aggrieved and the dissatisfied by the judgment and award dated 17.01.2025 passed in the dispute no.159/2023 by the Cooperative court Ahmednagar, the applicant intent to file an appeal as there is a delay in filing the appeal. The present application has been filed by the applicant for condonation of delay as well as the application filed below Exhibit 5 for stay of the impugned judgment and award.

The facts gave rise to file the application in nutshell are as under;

3. *The respondent herein has filed the dispute against the applicant for declaration, settlements of loan account and perpetual injunction. Contending that, “he is a member of the opponent / applicant society. He has availed the loan of Rs.40,00,000/- in the year 2018 from the applicant society. According to the respondent / disputant though the loan of Rs.40,00,000/- which shown to the sanctioned but the society deducted 5% amount towards share and processing charges from the sanctioning amount and entire sanctioned was not disbursed. The society further illegally debited few entries in his statement. The society has charged compounding interest and thus tried to recover excessive amount from him. On the basis of alleged illegal statement the society filed 101 proceeding against him”, thus the respondent has approached before the co-operative court and urged for restraining the opponent / applicant society from recovering amount from him and further settlement of his loan account as per the GR dated 19.07.2023 issued by the State Government.*

4) *The said dispute was proceeded exparte against the applicant and by the impugned judgment, the dispute was partly allowed by the trial court and the trial court directed the applicant society to settle the loan account of the disputant / respondent under OTS scheme and further restrained the society permanently from recovering any amount till settlement of loan account.*

5) *Today it is submitted by Mr. S. R. Aandhale Ld. Advocate for the applicant that, the impugned judgment passed by the Ld. Trial court is against the settle provision of law. In view of section 41 of the Specific Relief Act such injunction can not be granted moreover, prior to filing of dispute by the respondent the applicant bank has filed 101 proceeding against the disputant / respondent.*

6) *It is further submitted that, the disputant admitted the fact that, he has availed the loan of Rs.40,00,000/- in the year 2018 from the opponent and*

as on today he is liable to pay more than rupees 1 crore if such a blanket stay is granted then it will be difficult to run the society and the money involved is public money. Thus, Advocate urged for grant of stay to the impugned judgment and award.

7) I have gone through the impugned judgment and documents attached along with the same including the plaint and I find prima facie the judgment passed by the trial court is against the settle principal of law as well as the provisions of section 41 of the Specific Relief Act. The court can not grant stay to the recovery proceeding which is initiated earlier by the creditor society under the guise that borrower intents to settle his claim under OTS scheme without asking him to deposit at least the admitted claim to show his bonafides. Thus, I find this is a fit case to grant stay to the impugned judgment and award. Hence, following order.

ORDER

1. The application filed by the applicant below Exhibit 5 is allowed.
2. The judgment and award dated 17.01.2025 passed in the dispute no.159/2023 by the Cooperative Court Ahmednagar is stayed.
3. Cost will be the cost in caused.

Place : Aurangabad.

Date :- 21th April 2026

(Smt. S. R. Pawar)

Member

Maharashtra State Cooperative
Appellate Court Mumbai
Bench Aurangabad.