

EXHIBIT : 11
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Decided on : 24 – 03 - 2026
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THE MAHARASHTRA STATE CO-OP. APPELLATE COURT,
MUMBAI BENCH AT AURANGABAD.
(Before Smt. S. R. Pawar, Member)

Appeal No.77/2025.

(Arises out of the Judgment and Award dated 22.05.2024 passed by the Ld. Judge, Cooperative Court, Shrirampur in dispute bearing no.397/2019).

Smt. Smita Vaibhav Mule,
Age- Major, Occ. Household
R/o. Sindhi Complex, Navi Peth,
Karpe Estate, Birobanagar,
Rahuri, Tal. Rahuri, Dist. Ahmednagar.

..... **Appellant.**
(Orig. Opponent no.1)

VERSUS

- 1) Rahuri Taluka Vyapari Nagari,
Sahakari Patsanstha Ltd. Rahuri,
Dist. Ahmednagar.
Through its Manager,
Shri. Milind Gangadhar Satbhai,
Age -40 years, Occ.- Service.
R/o. Rahuri Tal. Rahuri,
Dist. Ahmednagar (Orig. Disputant)
- 2) Sanjay Gulabchand Bedmuttha,
Age- Major, Occ. Business,
R/o. Sonar Galli, Gokul Colony,
Rahuri, Tal. Rahuri, Dist. Ahmednagar.
- 3) Shri. Kedarnath Rangnath Chavhan,
Age- Major, Occ. Agriculture
R/o. Devlali Pravara, Tal. Rahuri

Dist. Ahmednagar.

(Orig. Opponent nos.2 and 3)
..... **Respondents.**

Smt. M. C. Varma, Ld. Advocate for the Appellant.

Mr. R. R. Karpe, Ld. Advocate for the Respondent no.1.

Mr. S. P. Bhavar , Ld. Advocate for the Respondent no.3.

The name of Respondent no.2 is deleted as per pursis filed at Exh.9

AURANGABAD.

DATE 24.03.2026.

ORAL JUDGMENT

(Dictated and pronounced in the open court)

1) *Being aggrieved and dissatisfied by the Judgment and Award dated 22.05.2024 passed by the Ld. Judge, Cooperative Court, Shrirampur in dispute bearing no.397/2019, the present appeal has been filed by the appellant (who was the opponent no.1 before the trial court).*

The original dispute was filed by the respondent no.1 society against the of appellant as well as respondent nos.2 and 3 for recovery of an amount of Rs.8,87,890/- along with interest @ 18% p.a. with quarterly rest from 29.11.2019 till realization of entire amount.

2) *By the impugned Judgment & Award the said dispute was partly awarded by the Ld. Trial court and thereby Ld. Trial court ordered the appellant as well as respondent nos.2 and 3 “to pay an amount of Rs.8,37,223/- jointly and severally to the disputant / respondent no.1 society along with interest @ 16% p.a. from 29.11.2019 till realization of the claim amount along with cost”. The*

Ld. Trial court further grant liberty to the disputant to attache the mortgage property and sale the same towards recovery.

3) *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 Ld. Trial court.*

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

4) *By filing the dispute it is contended by the disputant that, it is a Co-operative credit society, which is duly registered under the provisions of M.C.S. Act 1960. The husband of the opponent no.1 Mr. Vaibhav Mule as well as the opponent nos.2 and 3 are the members of the disputant society. The deceased Mr. Vaibhav applied for the loan facility of Rs.6,00,000/- from the disputant society on 27.03.2015 for his glass business, by furnishing the guarantee of the opponent Nos. 2 and 3 to the disputant society.*

5) *It is contended that, considering the loan demand application of the deceased opponent No.1 disputant society in its board of directors meeting dated 27.03.2015 vide resolution no.3 sanctioned the loan. After executing all the necessary loan documents such as D.P. note, surety bond, loan agreement, mortgage deed, letter of continuity etc. Towards the security of the loan the deceased has executed registered mortgage deed and provided his immovable property situated at Mauje Devlali Pravara city survey No.526 out of city survey No.643 out of and the property at Mauje Rahuri Bk. city*

survey No.395/2/11/59. As per agreement the said loan was to be repaid with interest @ 16% p.a. in case of default the borrower and sureties agreed to pay 2% penal interest. The said loan was to be repaid by monthly installments of Rs.21,095/- within the period of 36 months. The opponents as per the agreed terms.

6) It is contended that after avaiement of loan the borrower died on 25.12.2016 and the disputant got knowledge about the death in the year 2018. Thereafter, the disputant issued notice upon the opponent no.1 (who is the wife of deceased borrower) being the legal heir of the deceased opponent and demanded the money, but inspite of persistent demand the opponent nos.1 to 3 failed to pay the amount. Thus, lastly the disputant society issued legal notice dated 10/12/2019 to the opponents but in vain.

7) It is further contended that, as per the statement of loan account maintained by disputant society the opponents are in arrears of Rs.8,86,390/- as on 30/09/2019 + 1,500/- Notice fee i.e. total amount of Rs.8,87,890/-. The opponent No.1 being the legal heir of late Vaibhav Mule is liable to repay the loan outstanding amount of disputant society. On these cause, the disputant society constrained to file the instant dispute for recovery of its loan outstanding amount along with interest and cost of the dispute jointly and severally from the opponent Nos. 1 to 3.

8) Record of the trial court shows that pursuant to the summons issued by the trial court all the opponents have appeared before the trial court. The opponent no.1 has filed W.S. at Exh.16 and further amended the W.S. at Exh.24. Inspite of opportunity given the

opponent nos.2 and 3 failed to file their respective W.S. on record hence no W.S. order was passed against them.

9) By filing the W.S. the opponent no.1 (appellant) denied entire contentions of dispute. It is her defence that, the dispute is barred by limitation and hence not maintainable before this court and liable to be dismissed. The opponent No.1 contends that Shri. Milind Gangadhar Satbhai has no any right and authority to file the dispute on behalf of disputant society. It is the defence of opponent No.1 that she is not having any knowledge that, her husband has obtained loan of Rs.6,00,000/- from disputant society on 27/03/2015. The opponent No.1 denied the contention that her husband has mortgaged the properties mentioned in the dispute with disputant society. The opponent No.1 contends that the signatures shown in all the loan documents are not the signatures of her husband and all the signatures are false and bogus. The opponent No.1 contends that the amount of Rs.6,00,000/- was never received by her husband in cash and the disputant society has cheated him.

10) It is further the defence of opponent No.1 that, as per the circulars of Co-operative Department the disputant society has no legal right to charge interest. The opponent No.1 further contends that the disputant society by taking the disadvantage of the death of her husband has filed the instant false dispute for the recovery of the excess amount from her. In the amended written statement the opponent No.1 contends that the property mention by disputant society in paragraph No.5A is false and incorrect and the disputant society has no any legal right to attach and sale the said property. The opponent No.1 contends that in the dispute the disputant society has

not affixed sufficient court fee stamp. Thus, on these grounds the opponent No.1 prayed for dismissal of the dispute against her with cost.

11) On the basis of the aforesaid pleadings, the Learned Trial Court framed five issues below Exhibit 18.

12) In order to substantiate its claim, the disputant society examined its Authorized Officer and placed documentary evidence on record and he was cross-examined by Ld. Advocate for the opponent no.1. Thereafter, disputant closed its evidence and opponent no.1 stepped into the witness box and she was cross-examined by Ld. Advocate for the disputant. After that, matter was posted for final hearing.

13) Upon considering the pleadings of the parties, as well as the oral and documentary evidence available on record, the Trial Court partly allowed the dispute by the impugned judgment and award (cited supra).

14) Being highly aggrieved by the said judgment and award the present appeal has been filed by the appellant / opponent no.1 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".

15) Pursuant to summons issued in this appeal, respondent No.1/disputant society appeared through Learned Advocate Mr. R. R.

Karpe and the respondent no.3 has appeared through Ld. Advocate Mr. Bhavar. The respondent no.2 deleted by the appellant.

Mr. R. R. Karpe Ld. Advocate for the respondent no.1 supported the findings recorded by the Trial Court on issues Nos.1 to 5, contending that the same are legal and valid, and urged for dismissal of the appeal with costs.

16) This matter is kept for hearing since 21.07.2025 thereafter from time to time adjourned for hearing on several dates, inspite of ample opportunities are granted neither the appellant nor her Advocate present before this court and argued the matter, thus in view of the provisions of Regulation no.15 of the Maharashtra State Co-operative Tribunal Regulation 1962, I have heard Ld. Advocate Mr. R. R. Karpe for the respondent no.1 (who is decree holder).

17) Perused the entire appeal memo and grounds mentioned thereon.

18) Considering the pleadings of the parties, the oral as well as documentary evidence produced on record, the reasons assigned by the Learned Trial Judge in the impugned judgment, the grounds raised in the appeal memo, and after hearing the Learned Advocates for the respondent no.1, 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.

19) *After minute perusal of the appeal memo it is evident that, the appellant has raised following points to challenge the dispute and i.e.,*

- (i) *The dispute filed by the disputant is not within limitation.*
- (ii) *Her late husband never executed registered mortgage deed in favour of the disputant / respondent no.1 society.*
- (iii) *The suit loan transaction is hollow and bogus,*
- (iv) *The disputant society did not join other legal heirs of deceased borrower on record, thus dispute is barred for non joinder of necessary parties.*

20) *It is contended by the appellant in her appeal memo that, the Ld. Trial court did not properly appreciated all the above mentioned points and thus interference of this court is warranted.*

21) *Per contra, it is submitted by Mr. R.R. Karpe Ld.*

Advocate for the respondent no.1 society that, the deceased borrower has availed the loan facility from the disputant society in the month of March 2015 and he died on 25.12.2016. After the society got knowledge of death of deceased, immediate steps were taken by the society and in the year 2019 the dispute is filed. In view of the provisions of section 92 of the M.C.S Act the dispute is within limitation and Ld. Trial court has rightly consider the said aspect and hence interference of this court is not warranted. Moreover, the disputant by producing all the original loan documents proved the execution of the same. Moreover, all the loan documents did not deny by the appellant as well as respondent nos.2 and 3. The mortgage deed was registered before the office of Sub-registrar and being the registered document it has evidentiary value. Though the witness of the disputant society was cross-examined the loan documents remained un-shattered. Thus, the Ld. Trial court rightly allowed the claim.

22) *So far as, the defence / objection raised by the appellant in appeal memo in respect of non joinder of parties is concern, it is pointed out that, no such defence has been taken by the appellant / opponent no.1 in her written statement. Indeed, it was the responsibility of the appellant to disclose as to how many legal heirs are there of the deceased borrower for which the appellant failed and hence interference of this court is warranted.*

23) *While re-appreciating the case of respective parties, I have gone through the pleadings of parties and as well as oral and documentary evidence produced on record.*

After perusal of the plaint it is evident that, the dispute is filed by the disputant society against the wife of deceased borrower

(being LR of deceased) as well as the sureties of the borrower i.e. opponent no.2 and 3 for recovery of its unpaid dues. In the dispute itself the disputant contended that, the loan was availed by the borrower in the month of March 2015. He died in the month of December 2016. The dispute was filed on 12.12.2019 against the LR of deceased borrower.

24) *So far as the issue of limitation is concerned in view of the provisions of section 92 of the M.C.S. Act 1960, the period of limitation to file the dispute against the LRs of deceased is of six years from the date the borrower died or ceased to be a member of the society.*

Section 92 of the M.C.S. Act 1960 reads as under;

(1) Notwithstanding anything in [the Limitation Act, 1963], but subject to the specific provisions made in this Act, the period of limitation in the case of dispute referred to [th Co-operative Court] under the last preceding section shall--

(a) When the dispute relates to the recovery of any sum, including interest thereon, due to a society by a member thereof be computed from the date on which such member dies or ceases to be a member of the society.

(b) When the dispute is between a society or its committee, and any past committee, any past or present officer, or past or present agent; or past or present agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(c) When the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under section 102, or in respect of which a nominated committee or an administrator has been appointed under [section 77A or 78] as the case may be;

(d) When the dispute is in respect of an election of [a

committee or officers] of the society, be [two months] from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to [the Co-operative Court] under the last preceding section shall be regulated by the provisions of [the Limitation Act, 1963], as if the dispute were a suit and [the Cooperative Court] a Civil Court.

(3) Notwithstanding anything contained in sub section (1) and (2), [the Cooperative Court] may admit a dispute after the expiry of the limitation period if the Applicant satisfied [the Co-operative Court], that he had sufficient cause for not referring the dispute within such period and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation had expired.

Though the appellant contended that, the period of limitation is of two years from the death of deceased, I do not find any force in this submission. When the M.C.S. Act provides specific provision the provisions of general law need not be looked into.

In view of above-mentioned observation, I find dispute filed within limitation and thus maintainable.

25) *So far as the objection raised by the appellant in respect of non joinder of necessary parties is concern, I do not find any force. Admittedly, the appellant is the wife of deceased borrower. In her application she has mentioned her age as 45. After perusal of W.S. filed by the appellant it is evident that, in her written statement she did not raise the objection of non joinder of necessary party. Being LR of deceased she must of have knowledge about the fact how many children she have and what are their age. In the year 2025, she is 45 years (as mentioned in Appeal memo), thus when the dispute was filed in the year 2019 probably she must have 40 years. So presuming for the same of argument that, she might have children, they might be minor but it was a responsibility of the appellant to disclose their*

names for the appellant has failed. They may be a proper party, but otherwise not necessary parties. Thus, on this ground the dispute can not be dismissed.

26) The another defence raised by the appellant / opponent no.1 in dispute is that, her late husband was not the member of the society and he had never executed any documents, thus dispute is not maintainable.

To prove the membership of late husband of the disputant the witness of society has produced on record the membership application given by the deceased borrower at 'Exhibit 29' and the resolution of the Managing Committee at 'Exhibit 30' admitting late Vaibhav Mule as a member. These documents fulfill the requirements contemplated under Rule 19 of the Rules framed under the Maharashtra Co-operative Societies Act, 1960. The objection raised by the appellant based on the membership list at 'Exhibit 31' is not tenable, as the said list pertains to a proposed society and does not conclusively establish absence of membership. The appellant / opponent no.1 has also failed to disprove the documentary evidence produced by the disputant. On the contrary, after perusal of the evidence led by the disputant / respondent no.1 witness it is evident that, by producing the original loan documents he has proved the documents. Hence, the finding recorded by the trial court that, "late Vaibhav Mule was a member of the disputant society" is proper and does not call for interference.

27) Now the next question is whether the disputant has proved loan transaction and entitlement for recovery ?

To prove the loan transaction the disputant's witness Mr.

Milind G. Satbhai has led evidence in the matter in his evidence affidavit which is filed at 'Exhibit 25' the witness has reiterated the entire contention of the dispute and further produced on record the entire loan documents amongst those loan documents following documents are important,

- (i) Loan application (Exh.41)*
- (ii) Promissory note (Exh.44)*
- (iii) Loan agreement (Exh.46)*
- (iv) Guarantee documents. (Exh.47).*

It is to be noted here that, though this witness was cross-examined by the appellant's Advocate the execution of these documents has not been effectively rebutted. The presumption under Section 118 of the Negotiable Instruments Act operates in favour of the disputant society. The purpose of loan is corroborated by documentary evidence as well as admission of opponent No.1 in cross-examination.

28) On the basis of this document the disputant proved that, the opponent no.1 has availed the suit loan facility from the disputant bank for which the opponent nos.2 and 3 stood as guarantors. Further, the registered mortgage deed (Exh.43) strengthens the case of the disputant regarding execution of loan transaction. As the same was executed before the office of Sub-Registrar, the question of coercion or force upon deceased borrower doesn't arise. Thus it is evident that, after execution of necessary loan documents the loan was disbursed by the disputant society in favour of the deceased opponent no.1. Hence, the society discharge its primary burden of sanction and disbursement of loan.

After perusal of the saving account of the deceased borrower it is evident that, the loan amount was transferred in the saving account of the borrower and disputant and society has maintained the loan account in its due course of business. Though the witness has cross-examined the statement of account which is produced at 'Exhibit 34' his deposition remained un-shattered, hence the disputant is entitled for recovery of loan amount.

29) Considering all the above observations, I do not find any perversity or illegality in the judgment passed by the trial court, thus I find interference of this court is not warranted, Hence, If record by findings to the aforesaid points accordingly and following judgment is passed.

ORDER

- 1) Appeal bearing no.77 / 2025 is dismissed.
- 2) The parties to bear their own cost of appeal.
- 3) R & P sent back to the trial court.

Place : Aurangabad.

(Smt. S. R. Pawar)

Member

Date :- 24th March, 2026

Maharashtra State Cooperative
Appellate Court Mumbai
Bench Aurangabad.

Dictated and pronounced in the open Court.

Order dictated on : 24.03.2026.
Order transcribed on : 24.03.2026.
Order ready on : 24.03.2026.