**MHCO120001492024**

**Filed on : 03/10/2024**

**Decided on : 12/08/2026**

**Duration : Y M D**

**01 10 09**

**IN THE COURT OF JUDGE, CO-OPERATIVE COURT NO 1, PUNE.**
**(Presided over by Smt. Anju Jadhav-Judge)**

**Dispute no. 143/2024**

**Shree Jay Balaji Nagari Sahakari**
**Patsanstha Maryadit,**
(Register No. P.N.A./(P.N.A.)4R.S.R./(C.R.)/
2336/2002)
A body Corporate duly registered under the
Maharashtra Co-operative Societies Act, 1960,
Having its registered Office at-
Survey No. 51, Maharana Pratap Chowk,
Bhairavanagar, Dhanori, Pune-411015.
Through its Chirman,
**Mr. Sunil Govind More,**
Age-59 years, Occu.- Business,
R/at- Survey No. 55/3, Road No. 12,
Near Datta Mandir, Bhairavanagar,

Dhanori, Pune-411015.

**--- Disputant**

**VERSUS**

1. **Smt. Mukta Ram Biradar**
   Age- 57 years, Occu.- Housewife,
   Legal heir of deceased-
   Ram Shripatrao Biradar.
2. **Mr. Nikhil Ram Biradar**
   Age- 40 years, Occu.- Business,
   Legal heir of deceased-
   Ram Shripatrao Biradar.
   Both R/at- Survey No. 27, Galli No. 1,
   Munjabawasti, Dhanori, Pune-411015.
3. **Smt. Mukta Ram Biradar (Surety)**
   Age- 57 years, Occ.- Housewife,
   R/at- Survey No. 27, Galli No. 1,
   Munjabawasti, Dhanori, Pune-411015.

**--- Opponents**

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Ld. Adv. Shri. Inamdar Jameer, for the disputant.
opponent nos. 1 to 3 :- Expartee

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**JUDGEMENT**

**(Delivered on 12/08/2026)**

1. The disputant has filed the present dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960 for recovery of loan dues from the opponents.

The case of the disputant is that deceased Ram Shripatrao Biradar, a member of the disputant Patsanstha, had applied for and obtained a loan of Rs.75,000/- for his business purpose. Opponent no. 3 stood as guarantor for the said loan transaction and executed the necessary documents undertaking joint and several liability for repayment of the loan amount.

2. The evidence on record shows that the deceased borrower executed the loan application, loan agreement and other necessary documents in favour of the disputant. Upon consideration of the proposal and guarantee furnished by opponent no. 3, the loan was sanctioned and disbursed to the borrower. As per the terms of the loan transaction, the borrower was required to repay the loan amount together with interest in monthly instalments. However, the borrower failed to adhere to the repayment schedule and committed default.

3. It has come on record that the borrower Ram Shripatrao Biradar expired on 08/09/2019. Opponent nos. 1 and 2 are the legal heirs of the deceased borrower, whereas opponent no. 3 is the guarantor to the loan transaction. The disputant issued demand notices and legal notices calling upon the opponents to

clear the outstanding dues. Despite service of notices and repeated demands, the opponents failed to make repayment of the outstanding loan amount.

4. The record reveals that summons of the present dispute were duly served upon the opponents. However, they failed to appear before the court and did not file their written statement. Sufficient opportunity was granted to contest the proceedings. In spite of service, the opponents remained absent and, therefore, the dispute proceeded ex parte against them.

5. From the documents produced on record, it stands established that the loan amount was sanctioned and disbursed to the deceased borrower. The statement of account maintained by the disputant in the ordinary course of its business shows the outstanding balance due and payable under the loan account.

6. Disputant sought and amount of Rs.64,318/- towards principal amount, Rs.60,899/- as an interest, Rs.6,767/- as penalty interest arrears, Rs.1,000/- notice charges total amount of Rs.1,32,984/- jointly and severally from the opponents along with future interest at the rate 18% p.a. as future interest and penalty interest @ 2% p.a. from the filing of the present dispute till entire realization.

7. Opponent served summons but they remained absent and therefore dispute proceeded expartee against them.

8. In view of the pleadings of the dispute, the following issues and my findings to them supported with the reasons are as follows :-

| **ISSUES** | **FINDINGS** |
|---|---|
| 1) Does the disputant prove that, the opponent nos.1 and 2 jointly & severally liable to pay an amount of Rs.1,32,984/- with interest @ 18% per annum from the date of 03/10/2024 till complete realization of the amount? | : Partly Affirmative |
| 2) What order and award ? | : As per final order. |

9. In support of the claim, disputant bank has filed evidence affidavit of its witness namely Mr. Sunil Govind More at Exh. 18.

10. Following documents are filed by the disputant along with list of documents at Exh.20, which are as under :-

| Sr. No | Document | Date | Exh.Nos. |
|---|---|---|---|
| 1 | Resolution of appointment of legal advisor for filing of suit against the opponent. | 13/07/2024 | Exh. D-1 |
| 2 | Loan demand application of deceased Ram Shripatrao Biradar. | | Exh.D-2 |
| 3 | Loan application of deceased Ram Shripatrao Biradar | 02/11/2017 | Exh.D-3 |
| 4 | Kararnama/Karjarokha of deceased Ram Shripatrao Biradar. | 31/10/2017 | Exh.D-4 |
| 5 | Affidavit of opponent no. 3-surtety. | 31/10/2017 | Exh.D-5 |
| 6 | Death certificate of deceased Ram Shripatrao Biradar. | 04/10/2019 | Exh. D-6 |
| 7 | Demand notice sent by disputant to opponent no. 1. | 05/04/2024 | Exh.D-7 |
| 8 | Demand notice sent by disputant to opponent no. 2 postal dispatch receipt. | 27/05/2024 | Exh.D-8 |
| 9 | Returned envelope of demand notice sent by disputant to opponent no. 2. | 27/05/2024 | Exh.D-8A |
| 10 | Legal notice sent to opponent no. 1 and postal dispatch receipt. | 07/05/2024 | Exh.D-9 |
| 11 | Postal acknowledgement of notice sent to the opponent no. 3. | 07/05/2024 | Exh.D-10 |

| | | | |
|---|---|---|---|
| 12 | Statement of loan account of deceased Ram Shripatrao Biradar. | 14/08/2019 | Exh.D-11 |

## **REASONS**

**AS TO POINT NO.1** :

11. The disputant bank has examined D.W.1 Mr. Sunil Govind More at Exh. 18, who is the authorized person of the disputant society. His evidence is as per the averments of the dispute petition.

12. The copies of loan documents are produced alongwith list of documents at Exh. 20. The copies of the loan documents are at Exh. D-1 to D-5. All the above documents are verified from original. The said documents show that on the request of deceased Ram Shripatrao Biradar, the disputant society sanctioned and disbursed loan of Rs.75,000/- to him and opponent nos. 3 stood as guarantors for the said loan.

13. It is the contention disputant society that the principal borrower, Late Ram Shripatrao Biradar, expired on 08/09/2019. Under Section 92 of the Maharashtra Co-operative Societies Act, 1960, a dispute against the legal representatives of a deceased member is required to be filed within six years from

the date of death of such member. Therefore, the disputant society is required to institute the recovery dispute against the legal heirs of Late Ram Shripatrao Biradar within six years from 08/09/2019. The present dispute is filed within limitation by the disputant.

14. Opponents have not denied that the deceased Ram Shripatrao Biradar died on dated 08/09/2019 and after his death opponent nos. 1 and 2 are his legal heirs and they acquired and inherited the property of the deceased Ram Shripatrao Biradar. Therefore, they are liable to repay the outstanding loan of deceased Ram Shripatrao Biradar.

15. It also reveals that the opponents agreed to repay the loan amount with interest @ 18% per annum. The agreement (Exh. D-4) bears signature of deceased Ram Shripatrao Biradar and opponent nos. 3 stood as guarantors thereon. The account extract is produced at Exh. D-11, which shows outstanding principle loan amount of Rs.64,318/- and interest Rs.14,441/- as on 02/01/2019. The total outstanding against opponents is an amount of Rs.78,759/-. Disputant society further sought notice charges of Rs.1,000/- from the opponents. The notice and acknowledgements have been filed on record by the disputant society and

therefore society is entitled to recover the notice charges from the opponents.

16. The evidence of D.W.1 Mr. Sunil Govind More is corroborated by the documentary evidence. Further, the evidence of D.W.1 Mr. Sunil Govind More unchallenged on record. I find no reason to disbelieve the un-controversial oral and documentary evidence adduced by the disputant society.

17. Accordingly, I hold that the opponent nos.1 and 2 being a legal heirs of the deceased principal borrower and opponent no. 3 being the guarantor are jointly and severally liable to pay the principle loan amount of Rs.64,318/- and interest Rs.14,441/- total amount of Rs.78,759/- from as on 03/01/2019 to till the realization of loan amount. The liability of the legal heirs of deceased Ram Shripatrao Biradar is limited to the extent of the estate/property inherited by them from deceased Ram Shripatrao Biradar and the liability is up to the value of that property. Hence, I answer point no. 1 in partly affirmative.

**AS TO POINT NO. 2** :

18. The disputant society has proved its claim therefore; the dispute deserves to be allowed with costs.

In the result, in answer to point no. 2, I proceed to pass the following order.

**ORDER**

1) The dispute is partly allowed.

2) The opponent nos. 1 to 3 jointly and severally do pay to the disputant society an amount of Rs.78,759/- with interest @ 18 % p. a. from 03/01/2019 till realization of entire amount.

3) The opponent nos.1 to 3 do pay costs of the dispute to the disputant society.

4) The liability of the legal heirs of deceased Ram Shripatrao Biradar is limited to the extent of the estate/property inherited by them from the deceased Ram Shripatrao Biradar and the liability is up to the value of that property.

5) Award is drawn up accordingly.

(Dictated and pronounced in open Court)

ANJU VIJAYKUMAR JADHAV

Digitally signed by ANJU VIJAYKUMAR JADHAV
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**Place: Pune** **[Smt. Anju Jadhav]**

**Dated: 12/08/2026** **Judge,**

**Co - operative Court no. 1, Pune.**