

IN THE COURT OF CO-OPERATIVE COURT AHMEDNAGAR

(Presided over by Shri. B.S. Lakhote- Judge)

Case No.158/2023

1. Shri.Sagaji Yeshvant Bhangade
Age-60 years,Occ-Agri.
R/o Bhangadewadi,Dhavalpuri
Ta: Parner,Dist: Ahmednagr

2. Popat Aabaji Mate
Age-52 years,Occ-Agri/Business.
R/o Bhalwani Ta: Parner,
Dist: Ahmednagr

.....DISPUTANTS

Versus

Liquidator
Sampada Nagari Sah.patsanstha
Ltd.,Gurukul Building, Laltaki
Ahmednagar.

.....OPPONENT

ORDER BELOW EX.19

1. The opponent was raised objection for tenability of dispute on the ground that the disputant has not obtained persimmon under section 107 of MCS Act for filing of dispute. The contention of the opponent was that the liquidator was appointed on opponent society and to filed dispute against the liquidator under section 91 of MCS Act the permission U/s 107 of MCS Act is mandatory. After hearing of both side preliminary issued is frame which is under.

Whether the dispute is maintainable?

2. After framing of issue opportunity has been given to lead any evidence on this issue. Both parties failed to lead evidence. Heard the both counsels. The contention of the disputant counsel Shri.V.A.Dhokale that writ petition was filed before the Hon'ble High court and opponent withdrawn the writ petition and then after 6 year issued notice and filed dispute. The matter was being filed before the Hon'ble High court, the permission is not required to be obtained. On other side submission of Shri. Bankar counsel of the opponent that permission is mandatory under section 107 of MCS Act and without permission dispute is tenable against the liquidator under section 91 of MCS Act.

3. In order to examine correctness in the submission of the respective counsels, the provision of section 91 read with provision of section 107 of MCS Act need to be considered. The disputant filed dispute under section 91 of the MCS Act against the liquidator of the opponent society. The document filed by the disputant shows that the opponent society obtained recovery certificate under section 101 of MCS Act against the disputant on 22/03/2016 and accordingly the society initiated step for recovery of amount and issued notice to the disputant and his guarantors. The disputant filed dispute against the society and thereby challenge the notice dated 18/08/2024 issued by the recovery officer of the society.

4. The question only as to whether in absence of permission required to be obtained under section 107 of MCS Act the dispute is tenable. The relevant portion of provision of section 107 of the MCS Act shows that "*when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the society or the liquidator except by leave of the Registrar*". It means the leave of the Registrar is mandatory and without leave the legal proceeding can not lie. The disputant filed dispute without compliance of the said provision. It is also not shown by the disputant that

the disputant is trying to obtained permission to continued the dispute. Therefore the dispute is not tenable and liable to dismiss and accordingly I proceed to pass following order.

ORDER

1. It is declared that dispute is not tenable and is hereby dismiss.
2. No order as to cost.

Place : Ahmedangar

Date : 12/11/2024

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

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(Presided over by Shri. B.S. Lakhote- Judge)

Case No.84/2024Shri. kiran Shankar Thube**DISPUTANT**

Vs.

Raje Shivaji Gramin Bigar sheti

Sahakari patsanstha. Ltd.and others.....**OPPONENTS****ORDER BELOW EX.5**

1. The disputant pray for interim relief that opponents restrained from recovering loan amount from the disputant till the disposal of the dispute. According to the disputant he has not obtained loan from the opponent society and the loan Rs.1,50,00,000/- shown in the name of the disputant is bogus and disputant enquiry about the same to the society and it told by the society that disputant has not taken any loan from the society The disputant also given letter dated 10/04/2024 to the society. the special auditor issued notice on 18/06/2024 and called explanation about the alleged loan from the disputant and the disputant has given explanation that he has not taken loan.

2. The contention of the disputant that bogus loan shown in the name of the disputant and there by misappropriated loan. therefore pray for relief.

3. Heard the disputant counsel and gone through the documents produce on record . The counsel of the disputant in argument point out the documents as to how there is lacuna in the documents as there is no date in the karj rokha ,stamp purchased dated shown 28/08/2023 whereas the loan shown sanction on 01/03/2023, the account statement shown transfer of amount Rs.1,50,00,000/- on

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4. I have observed the documents as point out by the counsel and prima facie find substance in the contention of the disputant. It appears that the

special auditor issued notice to the disputant and demand the outstanding loan. considering the documents in my view ad-interim relief till the filing of the say on behalf of the opponents is required to granted. Accordingly I proceed to pass following order.