

Dispute No. 38/2023.
M/s.Bharat Trading Co.
V/s.
Pusad Urban

ORDER BELOW EXH. 42
(Passed on 22nd June 2026)

Disputant has filed the present application to suspend the proceedings of the present dispute for under section 93(2) of the Maharashtra Co-operative Societies Act,1960 until the final disposal of the proceeding in Special Civil Suit No.49/2025 pending before the Hon'ble Civil Judge Senior Division, Wani, Dist. Yavatmal.

2) It is submitted that, disputant has filed the present dispute u/s. 91 of the MCS Act, 1960, to declare that the disputant is not liable and responsible to pay the amount of monthly interest on loan amount since 31/03/2022 for the disputant's loan account bearing no.001104970000003 and to declare that the Rs.2.5 crore has been transferred illegally by opponent bank from the A/c. No. 001104970000003 of the disputant and to pass an award for recovery to effect that disputant is entitled to recover the amount of Rs.1,00,00,000/- along with interest of 18% p.a.

3) It is submitted that, India Trading Company, Bharat Trading Company, Rehan Trading Company, Navargaon Cotton Industries Pvt. Ltd. and Navargaon Trading Company are sister concern commercial entities. That all above commercial entities are owned by Pro. Sameer s/o. Shamim Ahmed and his family members. The disputant sister concern entities Rehan Trading Company, Navargaon Cotton Industries Pvt. Ltd. and Navargaon Trading Company has borrowed a loan from the opponent bank prior to the Covid -19. That during covid-19 period opponent bank Chairman Called Sameer s/o. Shamim Ahmed and told that they will settle the loans of Rehan Trading Company, Navargaon

Cotton Industries Pvt. Ltd. and Navargaon Trading Company and will waived all the interest amount of its sister concerns Company. That as per opponent bank chairman's offer all the three-loan account was to be settled in 9 Crores. That for the same he told that for such settlement bank have to arrange overdue interest but as the financial condition of bank was not good hence, they have to arranged it from there sister concern Bharti Maind Sahkari Pat Sanstha, Co-operative society.

4) It is also submitted that, during this period financial condition of the Sameer s/o. Shamim Ahmed and his family member was also critical and considering the offer and to settle all the litigation, Sameer s/o. Shamim Ahmed and his family members agreed to settle the matter. That as per offer opponent sanction Rs.2 Crores loan in favour of family member of Sameer s/o. Shamim Ahmed by mortgaging same properties with sister concern of opponent bank Bharti Maind Sah. Pat Sanstha, Cooperative Society, which were already mortgage with opponent bank and accordingly 4 Registered Mortgage Deeds were Registered by mortgaging the same properties of two crores of 4 accounts of 50 lakhs each.

5) It is further submitted that, opponent bank Pusad Urban Co-operative bank Wani branch accounts were regularized but then the Chairman kept mum for almost 1 year then he again contacted and this time opponent bank told disputant that disputant have to take another loan in the name of other firms for the settlement which was agreed to settle at 9 Crores. As the Sameer s/o. Shamim Ahmed and his family members who is already in critical financial condition due to Covid, agrees to take loan in their sister concern firm Bharat Trading and India Trading. That Rs.4.5 crore each were sanction by opponent bank by taking four registered mortgage deeds as securities in the name of disputant's sister concern firms in the name of Bharat Trading and India Trading the bank

asked the disputant to sign a number of documents which included blank withdrawal slips, RTGS forms etc. So also, the disputant was required to handover to the bank, signed blank cheques by way of security towards the loan amount. It is submitted that since this loan was sanctioned and as they were in need of money, they had signed the documents which ever were put before them and handed over to the bank and blank signed cheques, which were almost two cheque books. At that time, it was informed to them that the bank will be authorised to deduct the charges for loan processing, charges for banks shares and other necessary charges. It is submitted that since they are in need of money, they complied with all the necessary requirements. That it is pertinent to submit that opponent bank though the loan amount were disbursed in the account of Bharat trading and India Trading but huge amount was transferred from the account by the officials of the bank of the opponent. Illegally thereby causing wrongful loss to the disputant firms.

6) That it is submitted that, opponent bank played fraud with the disputant and its sister concerns company and firms and cheated them and hence disputant filed present dispute and other dispute bearing dispute no.233/2018, 234/2018, 267/2018 and 39/2023 which were pending against the disputant before this Hon'ble court. That a Criminal revision bearing no.7/2023 and criminal revision bearing no.11/2023, which is also pending before the District Judge at Kelapur, District Yavatmal. That opponent bank misguided and cheated this disputant and its sister concerns by misrepresentation which cause huge monetary loss and mental and physical agony to this disputant. That all the issues and dispute in present dispute and disputes mention above which were pending before this Hon'ble court at connected and interrelated.

7) It is submitted that, opponent bank played fraud with the disputant and its sister concerns company and firms and opponent has

cheated them and hence they have filed a Civil Suit bearing No.Special Civil Suit no.56/2024 on 28/11/2024 against the opponents and others for grant of Declaration, Permanent and Mandatory Injunction and Recovery of amount of Rs.20,15,38,500/- along with interest @18 % p.a. before the Court of Hon'ble CJSD, Kelapur, Dist. Yavatmal. That said suit was transferred to the Hon'ble C.J.S.D, Wani, Dist. Yavatmal after establishment of C.J.S.D. at Wani and renumbered as Special Civil Suit No.49/2025, which is still pending in the said court.

8) That the applicant submits that above said civil suit is pending involving the same subject matter and substantially the same issues between the same parties. That disputant Bharat Trading Company is plaintiff no.9 and opponent Pusad Urban Co-op Bank Ltd. is made defendants in the said suit. That the issues involved in the present dispute are directly and substantially in issue in the aforesaid proceeding.

9) It is submitted that, the disputants and its sister concerns company and firm's properties are mortgaged in relation to these transactions. Notably, all the property are already mortgaged for a loan account with M/s. Nawargaon Cotton Industries Pvt. Ltd, Navargaon Trading co. and Rehan Trading Co. at opponent Pusad Urban Co-operative Bank Ltd. Wani Branch Pandharkawda & Patanbori Branches, Wani Branch Manager issued NOC for seeking additional loans from Bharti Maind Nagari Sahakari Patsanstha Ltd. to also take a Secondary Charge Mortgage on these very same properties, that can be seen on the face of records itself. This demonstrates that the property is already subject to complex, potentially overlapping, and disputed charges with other defendants involved in the alleged "game plan." If the underlying transactions are proven fraudulent, the legitimacy and priority of all associated charges, including those held by opponent Pusad Urban bank

and Bharti Maind Nag. Pat Sanstha Ltd. will be called into question by the Civil Court.

10) It is submitted that it would be pre-empt the finds of Special Civil Suit No.49/2025, where the fundamental validity and nature of these very loan transactions are under scrutiny due to the extensive allegations of fraud, misrepresentation and siphoning of funds the Civil Court is the proper forum to adjudicate such complex allegations involving conspiracy and large-scale fraud.

11) The “prima facie finding” by the Civil Court, specifically in the Order below Ex.1, dated January 23, 2025, in S.C.S. No.56/2024 (renumbered as S.C.S.No.49/2025), is significant and articulated as follows :

“Thus, it appears that, the defendants have played unfair practice and fraud on the plaintiff. Plaintiffs have made out prima facie case and as there are specific allegations of alleged fraud and misrepresentation committed by defendant, it needs to take cognizance in the present matter”.

Consequently, the court found the “plaintiff’s suit is maintainable before this Court”.

12) It is further submitted that, if the present dispute proceeds simultaneously, it may lead to conflicting decisions and multiplicity of proceedings. That under section 93 (2) of M.C.S. Act. 1960 this court has the power to suspend the proceedings in respect of any dispute, if the question at issue between a society and claimant or between different claimants, is one involving complicated question of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. It is submitted that since the present matter and other connected matters have complicated questions of law and fact and hence

said questions and issues between the parties needs to be decided by the Civil Court in S.C.S No.49/2025 pending before the Hon'ble C.J.S.D. Wani, Dist. Yavatmal. That it is therefore just and necessary that the proceedings of the present dispute be suspended till the final decision of the aforesaid proceeding. Hence, this application.

13) Heard Learned Advocate Shri. A.R.Zatale for disputant and Learned Advocate Shri. S.M.Shrimali for opponent bank.

REASONS

14) This is an application filed by disputant under section 93(2) of M.C.S. Act, 1960 for suspension of proceeding. According disputant, opponent bank played fraud with disputant and its sister concern company and firms. The criminal revision bearing no.7/2023 and and criminal revision bearing no.11/2023, which is also pending before the Hon'ble District Judge at Kelapur, District Yavatmal and civil suit S.C.S is also filed against opponents at C.J.S.D. Kelapur and later transferred to the C.J.S.D. Wani, Dist. Yavatmal. The above said civil suit is pending involving the same subject matter. The Civil Court is the proper forum to adjudicate such complex allegation involving conspiracy and large scale fraud. This court has power to suspend the proceeding since the present matter and other connected matters have complicated question of law and fact and hence said questions and issues between the parties needs to be decided by the civil court in special civil suit no.49/2025 and prayed to suspend the present proceeding.

15) At Ex.43 disputant has filed reply that, it is not in dispute between the parties that the disputant has filed a dispute u/s. 91 of M.C.S. Act, 1960 for the alleged relief claimed as is alleged in the prayer clause. It is denied each and every contents of the application. It is submitted that it is pertinent to note that the section 93(2) of M.c. S. Act, 1960 reads as follows:

“Notwithstanding anything contained in this Act, the Co-operative Court, on an application made to it by any of the parties to the dispute, may, if it thinks fit suspend any proceedings in respect of any dispute, if the question at issue between a society and a claimant or between different claimants, is one involving complicated questions of law and fact, until the question has been tried by a regular suit instituted by one of the parties or by the society. If any such suit is not instituted in a Civil Court within two months from the date of the order of the Cooperative Court, that Court shall continue the proceedings and decide the dispute.”

Thus, from the plain reading of the section it is very clear that first the Co-op Court has to pass an order that there involves complicated question of law and facts and after passing of the order the suit has to be instituted in a Civil Court within two months from the date of the order of the Co-op court. Now taking a pause for a moment here, it is to be noted that, the dispute is already filed long back in 2018 and issues are framed long back and whereas the Civil Suit was filed in 2024 and hence there arose no question of now filing any civil suit as stated in the section. This shows how the disputant is trying to abuse the process of law and making a mockery of justice just with an intention to prolong the matter without adducing the evidence since long. There is no order of this court and therefore there arose no question of suspending the proceedings of the present dispute and thus considering the law the present application is totally devoid of substance and without merit and deserves to be dismissed with cost of Rs.10,000/-.

16) Heard Ld. Adv. of disputant on other side opponent has mentioned that, co-operative court has to pass an order that there involves complicated question of law and facts and after passing of the order the suit has to be instituted in Civil Court within two months from the date of the order of Co-operative Court. Civil Suit is filed in 2024, the

disputant is trying to abuse the process of law and prolonging the matter. No question of suspending the proceedings of the present dispute and thus considering the law present application is totally devoid of substance and without merit and deserves to be dismissed with cost.

17) Perused the application and say. According to Ld. Adv. of disputant, the same proceeding, same cause of action is arise in civil suit. Hence, this dispute need to be suspend at this stage. Ld. Adv. of opponent has argued that, after the dispute, the civil suit is filed and hence this dispute cannot be suspended.

18) Perused this applications and say. Heard both sides, considering this dispute dates are need to be consider. This dispute is filed in December 2018 and on perusal of special civil suit it shows that, the suit is filed after this dispute. Which you can not do directly. You also can not do it indirectly. After filing this dispute, other special civil suit is filed. Prayers mentioned in civil suit is regarding declaration and injunction and prayer mentioned in the dispute is regarding declaration. But contents are different and parties are different. At this stage it would be not proper to suspend this dispute. In view of the above discussion, I proceed to pass the following order.

ORDER

1. The application is rejected.
2. No order as to cost.

(Dictated and pronounced in open court)

Dt. 22/06/2026

(Smt.K.A.Pattebahadur)
Judge,
Co-operative Court,
Amravati.