

Com. ULP No.22/2019
CNR NO.MHLC0900-0101-2019

**Nishikant B. Bhojane Vs. Shankarrao Pujari Nutan Nagari Sah.
Bank Ltd., Ichalkaranji & Ors.**

ORDER BELOW EXH.U-12
(Dtd. 21/03/2025)

Present application is preferred by the complainant for amendment under Order 6 Rule 17 of C.P.C. The respondent no.1 raised strong objection to present application. The respondent no.2 has not filed say.

2) Perused the application and say filed by the respondent. Also perused the record. Heard Ld. Advocate for both the sides.

3) As per complainant he has filed main complaint challenging his termination order dtd. 29/11/2018. During pendency of the present complaint the Commissioner for Co-operation and Registrar of Co-operative Society, Maharashtra State, Pune in the exercise of the powers confirmed upon has passed order dtd.13/05/2022 that supersede the present Board of Directors of respondent no.1 Bank and appointed an Administrator in the place of Board of Directors to manage the affairs of the bank. Afterwards again order dtd.05/12/2023 issued and thereby ordered the winding up of the affairs of the respondent Bank and appointed the liquidator. Therefore, it is necessary to amend the complaint in order to add the liquidator as respondent no.3. Hence, it is prayed to allow the application.

4) The respondent no.1 filed say to present application vide

Exh.C-15 and raised strong objection stating that, vide order dtd.05/12/2023 passed by the Commissioner for Co-operation and Registrar of Co-operative Society, Maharashtra State, Pune the respondent no.1 bank went into liquidation and Dr. S. N. Jadhav, Dy. Registrar, Co-operative Societies, Hatkanangale is appointed as Liquidator. It is submitted that under section 107 of the Maharashtra Co-operative Societies Act, 1960 prior permission of Commissioner for Co-operation and Registrar of Co-operative Societies, Maharashtra State, Pune is required to proceed against the liquidator. Therefore, it is prayed to reject the application.

5) Admitted position is that, the Commissioner for Co-operation and Registrar of Co-operative Societies, Maharashtra State, Pune vide its order dtd.05/12/2023 ordered the winding up the affairs of the respondent no.1 bank and appointed the liquidator to conduct the affairs of the said bank as per the powers exercisable under Section 105 of the Maharashtra Co-operative Societies Act, 1960. It is seen that, as the objection raised by the respondent no.1 in pursuant to section 107 of the Maharashtra Co-operative Societies Act, 1960 the complainant has sent letter for obtaining permission under said section to continue the present complaint against the liquidator. However, the documents produced by the complainant shows that, the permission is a rejected by the concerned Authority.

6) The respondent no.1 to support its contentions relied upon **Mr. Sadashiv K. Sutar Vs. Kolhapur Zilla Janata Sahakari Bank Ltd. and Anr. (2004 (2) ALL MR 115)**. In this case, it is held that, “No proceedings can be continued without prior lieu of

Registrar of Co-operative Societies in view of the winding up proceedings. The Expression “other legal proceedings” in section 107 of Maharashtra Co-operative Societies Act, includes proceedings under Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971. It further relied upon Shri. **Madanlal Vishwanatha Patil & Ors. Vs. Dhansampada Nagari Sahakari Patsanshta Ltd. & Ors. (2012(1) ALL MR (Journal) 18)**. In this case, it is observed that,

“ In this respect a reference can be made to section 107 of the Maharashtra Co-operative Societies Act, 1960. It specifically bars continuation of the proceedings of consumer complaints before the Consumer forum once the liquidator is appointed except by lieu of Registrar and subject to such terms. Mention to ‘other legal proceedings’ in the said section would certainly cover proceeding before the consumer forum.”

7) On the contrary, the complainant relied upon **Narayan s/o. Arjunji Vighne Vs. State of Maharashtra (2011 (1) MHLJ 149)**. In this case, it is held that,

“ Application under section 107 by the employees for permission to proceed against the liquidator for non-observance of provisions of the Industrial Disputes Act, 1947 ought to have been granted by the Registrar.”

In this case, it is further observed that,

“The Registrar has committed error in rejecting the application tendered by the employees seeking permission as contemplated by section 107 of the Maharashtra Co-operative Societies Act, 1960. So far as the merits of the claim raised by the employees is concerned, the same has to be scrutinized by a proper forum dealing with the dispute that may be raised by the employees. It would be to premature to commit

upon the merits of the claim at the stage of grant of permission to initiate proceedings against the liquidator. It would be open for the liquidator to raise appropriate contentions and put-forth his defence in the proceeding which are proposed to be initiated by the petitioner before appropriate forum. At the stage of consideration of application seeking permission to initiate the proceeding against the liquidator, it would not be open for the Registrar to look into the aspects touching the merits of the proposed claim and those issues can be dealt with by the appropriate forum on initiation of appropriate proceedings by the employees.”

8) He further relied upon **Akola Municipal Corporation Vs. Vidharbha Urban Co-operative Bank Ltd.(2011(5) Mh L.J. 901)**. I have gone through this Judgment. In this Judgment the Hon'ble Bombay High Court considered the observations in **Narayan Vighne's case (Cited Supra)** and observed that, it is not open for the Divisional Joint Registrar to go into the merits of claim of the petitioner whilst considering an application to proceed against the respondent no.1.

9) In present case, as discussed earlier the complainant sought permission under section 107 of the Maharashtra Co-operative Societies Act, 1960 and which came to be rejected on the ground that, the present complaint has been filed when the Board of Director was in existence and the dispute is in between the complainant and the then Board of Directors. The liquidator has been appointed and the Bank is being managed through liquidator thereafter, hence, rejected the permission under said section. It has been observed that, the present application is filed to make liquidator as a party to present proceeding by way of

amendment. Whether there is illegal termination of the complainant in the hands of the respondents this issue will be decided at its appropriate stage after giving both the parties opportunity to be heard. As today the liquidator is managing day today affairs of the respondent Bank in my opinion it is required to made party to present proceeding. As held in the Judgments on which the complainant relied the Registrar cannot go into the merits of the case and the dispute raised by the employee has to be scrutinized by a proper forum dealing with the dispute. Thus, these observations helps the complainant. If the liquidator is made a party to present proceeding it would be open for him to put-up his case. On the contrary, if permission is rejected the complainant would be deprived from his legal right. Under these circumstances, the observations in the Judgments on which the respondent no.1 relied upon does not help it. Thus, Considering aforesaid aspects present application deserves to be Allowed. Hence the order :-

ORDER

- 1) The application **Exh.U-12** is allowed.
- 2) The complainant to carry out necessary amendment within stipulated time and to produce copy of amended complaint.
- 3) Parties to take note.
- 4) No order as to costs.

Date :- 21/03/2025.
Place :- Kolhapur.

(Madhura A. Mulik)
Judge,
Labour Court No.1, Kolhapur.