

	Received on :	25/10/2017
	Registered on :	25/10/2017
	Decided on :	18/04/2026
	Duration :	Ys. Ms. Ds.
		08. 05. 24.

**IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, KARANJA,
DIST. WASHIM**

(Presided over by Mr. S. W. Thombre)

Regular Civil Suit No.91/2025

(Old R.C.S No.100/2017)

(CNR No.MHWS110013052025)

Exh.No.78.

Sudhir Madhukarrao Nakhate,
Aged about - 65 years, Occ. Nil,
R/o. Dewanjali, Hatotipura, Karanja Lad,
Tq. Karanja, Dist. Washim.

...

Plaintiff.

... **VERSUS** ...

Sundarlal Saoji Urban Co-operative
Bank Ltd., Jintur, through its
General Manager, Jintur,
Tq. Jintur, Dist. Parbhani.

...

Defendant.

CLAIM :- **SUIT FOR DECLARATION AND DAMAGES.**

Appearances :

Ld. Advocate Mr. S. N. Thokal for the plaintiff.

Ld. Advocate Mr. R. S. Joharapurkar for the defendant.

J U D G M E N T

(Delivered on 18th April, 2026)

The present suit has been filed for the reliefs of declaration and damages.

2] Facts of plaintiff's case are as follows :-

The defendant is a Co-operative Bank duly registered under the Maharashtra Co-operative Societies Act, 1960. The plaintiff was in the employment of the defendant Bank as a Branch Manager. The defendant Bank had levelled certain false charges against the plaintiff leveling in as much as two charges against the plaintiff for the misconduct alleged to have been committed by him in the Karanja Branch of the defendant Bank and therefore, he has been dismissed/removed from the services for the charges leveled against him alleged to have been proved against him during departmental enquiry conducted against him. The order of removal of the plaintiff from the services has been communicated to the plaintiff at the residential address of the plaintiff at Karanja Lad, Tq. Karanja Lad. Dist. Washim, within the territorial jurisdiction of this Court and thus the cause of action for filing the present suit arose to the plaintiff within the territorial jurisdiction of this Court.

3] The plaintiff further averred that the dispute is in between the Co-operative Society and its servant in respect of removal/dismissal of the plaintiff from the services in pursuance of the alleged resolution passed in the meeting of the Managing Committee of the defendant Bank and thus, it is a dispute as contemplated under Section 91 of the Maharashtra Co-operative Societies Act, 1960. The plaintiff was in the employment of the defendant Bank since 27/09/1986. Initially the plaintiff was

appointed as a Clerk on daily wages. Thereafter, looking to the service record of the plaintiff, his work and his performance etc, the plaintiff had continued within a span of one year as a Clerk and he reported on duties as a Clerk on 10/09/1987.

4] The plaintiff further averred that thereafter, he was again promoted in the year 1990 as the Passing Officer and later on he was promoted as the Branch Manager since 04/11/1996. Thus, the plaintiff has been granted promotions time to time considering his qualification and service record. The plaintiff's entire service record was clean and unblemished and there was nothing adverse against him through out his service. The plaintiff was also awarded with the appreciation letters regarding his work from time to time. The plaintiff was a devoted employee of the defendant Bank and he being the responsible Officer, he had to get work done from his subordinates and if any employee commits mistake or found negligent in discharge of duties, the plaintiff had to bring the mistake to notice of the employee concerned and also to give understanding to the employees concerned.

5] The plaintiff further averred that the plaintiff in the said capacity also cautioned the employees working under the plaintiff for smooth and proper working of the defendant Bank and while discharging the duties sincerely and honestly by him, some employees got annoyed and had formed a personal grudge against him and more particularly the employees namely Smt. Sunita

Bhawarilal Saraswat and Smt. Varsha Pradeepkumar Khedkar had formed a more grudge against the plaintiff as some times the plaintiff had scolded both said employees for their negligence in duties and improper behavior in the branch of the defendant Bank. These two employees were not devoted to their work. Both the employees were avoiding discharging their duties sincerely and properly. Both the employees were in habit to leave the Office during the working hours affecting the functioning of the Bank Branch at Karanja.

6] The plaintiff further averred that both the aforesaid employees used to avail the leaves frequently. When the leaves were not granted to these employees, they misbehaved with the plaintiff in the Office itself. The Husband of Smt. Sunita Bhawarilal Saraswat had also picked up quarrel with the plaintiff since the plaintiff has refused to grant leave to Smt. Sunita Bhawarilal Saraswat considering the Office exigencies.

7] The plaintiff further averred that for the reasons stated above both the aforesaid employees got annoyed and had formed a personal grudge against the plaintiff and with vindictive mind made certain complaints against the plaintiff making false allegations in the complaints. On the basis of the said false complaints the plaintiff was transferred from Karanja Lad to Jalna and on the basis of the said false complaints the charge-sheet dated 22/12/2006 was served on him by the General Manager of the defendant Bank levelling in as much as two charges against the plaintiff.

8] The plaintiff further averred that it was alleged against him vide charge No.1 that while discharging duties in the Karanja Branch of defendant Bank as the Branch Manager, he had misbehaved with Smt. Varsha Pradeepkumar Khedkar and Smt. Sunita Bhawarilal Saraswat and further contended that the xerox copies of the complaints of Smt. Varsha Pradeepkumar Khedkar and Smt. Sunita Bhawarilal Saraswat have been annexed with the charge-sheet. No specific charge and allegations were made in the charge-sheet against the plaintiff regarding the so called misconduct committed by the plaintiff with those employees. The another charge which was levelled against him that due to so called misconduct alleged to have been committed by the plaintiff, the plaintiff had behaved in indiscipline manner deforming the defendant Bank. Thus, the charges Nos.1 and 2 are in respect of the same misconduct alleged to have been committed by the plaintiff.

9] The plaintiff further averred that only with a view to increase gravity of the misconduct alleged to have been committed by the plaintiff, two charges had been levelled against the plaintiff. In fact, the plaintiff had not committed any misconduct as alleged at any point of time and the plaintiff was and is innocent. It is pertinent to note that before receipt of the reply of the plaintiff to the charge-sheet dated 22/12/2006, the Enquiry Officer was appointed by the defendant Bank for conducting the enquiry of the misconducts alleged to have been committed by the plaintiff. Without granting

any opportunity to give reply of the charge-sheet to the plaintiff the Enquiry Officer was appointed by the defendant to conduct the enquiry. The Enquiry Officer could be appointed to conduct the enquiry of the charges levelled against the employee after considering the reply of the charge-sheet submitted by the employee if it is not found satisfactory. But in the instant case of the plaintiff before receipt of reply of the plaintiff to the charge-sheet, the Enquiry Officer was appointed which clearly proves that the defendant Bank had predetermined to dismiss/remove the plaintiff from the services by making a force for enquiry. Thus, the Enquiry Officer appointed by the defendant Bank and procedure adopted to conduct the enquiry is very foreign to the provisions of law and also against the principles of natural justice and equity and therefore, on this count alone the enquiry conducted by the Enquiry Officer is liable to be vitiated.

10] The plaintiff further averred that it is further pertinent to note that the advocate Shri. Shirish N. Welankar who had been appointed as the Enquiry Officer was an advocate on the panel of the defendant Bank who receives sumptuous amount for rendering the services to the defendant Bank. The Enquiry Officer was bias and has given a desired result to the defendant Bank. The Enquiry Officer has not granted fair and proper opportunities to the plaintiff to defend himself in the enquiry proceeding. The Enquiry Officer only made a false enquiry. The Enquiry Officer himself acted as prosecutor in the

enquiry proceeding, for and on behalf of the defendant Bank. The Enquiry Officer himself acted as presenting Officer for the defendant Bank and therefore, on this count also the enquiry conducted by the Enquiry Officer is liable to be vitiated.

11] The plaintiff further averred that the Enquiry Officer did not follow the proper procedure in conducting the enquiry. Contrary to the service rules applicable to the services of the plaintiff, the enquiry was conducted by the Enquiry Officer. The Enquiry Officer had conducted the enquiry in total violation of principles of natural justice and equity by not granting fair and proper opportunity to the plaintiff in the enquiry proceeding. The Enquiry Officer has not granted fair and proper opportunity to defend the plaintiff in the enquiry proceeding and to prove his innocence and thus, on this count also the enquiry conducted by the Enquiry Officer is liable to be vitiated.

12] The plaintiff further averred that Enquiry Officer did not supply the copies of day to day proceeding to the plaintiff with an ulterior motive. The Enquiry Officer had also not supplied the copies of the statements of the witnesses alleged to have been recorded in the enquiry proceeding. The documents relied on by the defendant Bank to prove the charge levelled against the plaintiff were also not supplied to the plaintiff by the defendant Bank in spite of demands made by him to that effect to the concerned Enquiry Officer. The Enquiry Officer did not record the objections of the plaintiff raised in

the enquiry proceeding. The enquiry officer all the while favoured to the defendant Bank in the enquiry proceeding.

13] The plaintiff further averred that the plaintiff had filed his factual reply to the charge-sheet. However, the reply of the plaintiff to the charge-sheet was not at all taken into consideration either by the defendant Bank or by the Enquiry Officer and the enquiry was conducted as if the plaintiff has committed the misconduct. The copies of the preliminary enquiry alleged to have been conducted by one Shri. Chidrawar was also not supplied to the plaintiff during the enquiry proceeding or with the charge-sheet. Merely copies of statements of the employees recorded by him were supplied at the fag end of the enquiry to the plaintiff. It is pertinent to note that preliminary enquiry was conducted by Shri. Chidrawar behind the back of plaintiff. On the date when preliminary enquiry was conducted, on that date, the plaintiff was on leave.

14] The plaintiff further averred that on bare perusal of the statement of Smt. Varsha Pradeepkumar Khedkar, it will reveal that there was no allegations of the misconduct or misbehaviour with Smt. Varsha Pradeepkumar Khedkar as regards to sexual harassment to her by the plaintiff. On perusal of the statement of Smt. Sunita Bhawarilal Saraswat also, there is no statement made by her that she was sexually harassed by the plaintiff. In the statement of both these employees during the preliminary enquiry conducted by one Shri. Chidrawar. Smt. Varsha Pradeepkumar Khedkar and Smt. Sunita

Bhawarilal Saraswat have not made any allegations against the plaintiff regarding sexual harassment. On the contrary, from those statements it reveals that both these employees had a personal grudge against the plaintiff regarding the Office work. This fact is self sufficient to prove that whatever complaints both the aforesaid employees had made making allegations regarding sexual harassment by the plaintiff to them were false and incorrect.

15] The plaintiff further averred that it is pertinent to note that the statement of one Shri. Santosh Jirwankar is alleged to have been recorded in the enquiry proceeding but the statement of Shri. Santosh Jirwankar was not recorded in presence of the plaintiff. It is further pertinent to note that the defendant Bank has not deliberately supplied the list of witnesses to be examined by the defendant Bank in the enquiry proceeding to prove the charges against the plaintiff rendering the enquiry vitiated on the aforesaid count. It is further pertinent to note that no statement of Santosh Jirwankar was even recorded in the preliminary enquiry conducted by one Shri. Chidrawar even though the reference of recording of statement of Shri. Santosh Jirwankar is found in the enquiry report submitted by the Enquiry Officer. Thus, it is crystal clear that the said statement has been fabricated subsequently to sub serve the ill intention of the defendant Bank so as to dismiss the plaintiff from the services. There is no reference whatsoever in the entire enquiry proceeding how the management came to know that some talk had

taken place regarding womanization between Santosh Jirwankar and the plaintiff and how they had approached to Santosh Jirwankar.

16] The plaintiff further averred that thus, the witness is merely stood up by the defendant Bank and they have fabricated a false evidence to suit the ill intention of the defendant. How the Enquiry Officer called Shri. Santosh Jirwankar as a witness does not find any support from the charge-sheet or preliminary enquiry conducted by Shri. Chidrawar more particularly when the said preliminary enquiry report of Shri. Chidrawar was not placed on record during the enquiry proceeding. It is further specifically stated that none of the witnesses was examined in the enquiry proceeding in presence of the plaintiff and the plaintiff had never declined to cross-examine them. Thus, in frequent violation of principles of natural justice and the procedure laid down in the service rules applicable to the service of the plaintiff, the enquiry was conducted by the Enquiry Officer to suit ill motive of the defendant Bank. Thus, on all these count, the enquiry conducted by the Enquiry Officer is liable to be vitiated and it be vitiated.

17] The plaintiff further averred that the findings recorded by the Enquiry Officer is erroneous and incorrect. The findings recorded by the Enquiry Officer are contrary to the facts, documents and evidence on record. The findings recorded by the Enquiry Officer are perverse and therefore, also the enquiry conducted by the Enquiry Officer is liable to be vitiated.

18] The plaintiff further averred that on the basis of such enquiry report, the show cause notice was issued to the plaintiff by the defendant Bank alleging that the charges levelled against the plaintiff have been proved and to show cause as to why the plaintiff should not be dismissed from the services. The plaintiff submitted his reply to the show cause notice under frustration contending that though the plaintiff has not committed any misconduct and no misconduct is proved against the plaintiff, the reply of the plaintiff to the said show cause notice should be treated as resignation and the same be accepted. The said reply of the plaintiff under frustration to the said show cause notice was treated as admission of the guilt of the plaintiff by the defendant Bank which illegally removed the plaintiff from the service vide order dated 02/07/2007 in pursuance of the resolution alleged to have been passed by the Managing Committee of the defendant Bank.

19] The plaintiff further averred that it is pertinent to note that to the information and knowledge of the plaintiff no such resolution was passed by the Managing Committee of the defendant Bank at any point of time and therefore, no resolution number has been mentioned in the order of removal of the plaintiff from the service dated 02/07/2007 in pursuance of the resolution alleged to have been passed by the Managing Committee of the defendant Bank. Thus, the removal of the plaintiff from the service on all these counts is illegal and unlawful and therefore, the order of removal of the

plaintiff from the service dated 02/07/2007 is liable to be quashed and set aside. Hence, plaintiff has constrained to file present suit.

20] On the contrary, defendant Bank filed its written statement at **Exh.30** wherein the averments made by plaintiff in his plaint have strongly been resisted by the defendant Bank. It is further pleaded that it is not disputed that the defendant is a Co-operative Bank duly registered under the Maharashtra Co-operative Societies Act, 1960. It is also not disputed that the plaintiff was in the employment of defendant Bank as a Branch Manager. However, it is strongly denied that the defendant Bank had levelled certain false charges against the plaintiff. It is denied that the plaintiff was a devoted employee of the defendant Bank.

21] It is further pleaded by defendant Bank that the plaintiff was a Branch Manager of the defendant's Bank at Branch Karanja and two lady employees namely Smt. Varsha Pradeepkumar Khedkar and Smt. Sunita Bhawrilal Sarswat had made complaints against him about his misbehaviour with them and on that complaints, the Officer of the defendant Bank Shri. A. B. Chidrawar, Manager came at Karanja and had enquired about the complaints of the said lady employees with the staff of the defendant Bank and thereafter, he submitted the report with the Head Office of the defendant Bank and then the defendant Bank had appointed Enquiry Officer Shri. S. N. Welankar, Advocate at Parbhani and accordingly, said Enquiry Officer after giving due notices to all the concerned including the

plaintiff conducted the enquiry by examining all the witnesses and giving due opportunity to the plaintiff for cross examination of those witnesses who had been examined by him and the statement of the plaintiff was also came to be recorded on 03/04/2007 at **Exh.52** and thereafter, the Enquiry Officer had submitted his detailed report to defendant Bank on 03/05/2007 along with order sheets of the enquiry proceeding. The copy of that report also came to be supplied to the plaintiff by the Enquiry Officer. In that Departmental Enquiry Report the plaintiff was found guilty of misconduct with the said lady employees.

22] It is further pleaded by defendant Bank that after receiving said enquiry report the plaintiff had issued one letter in the name of Chairman of the defendant Bank on 21/06/2007 and in that letter tried to clarify all the charges and in that letter itself he also submitted his resignation to the defendant Bank and requested them to consider his resignation as early as possible. Accordingly, the defendant Bank after taking into consideration the enquiry report and finding therein along with his resignation also passed a resolution on 30/06/2007 and the plaintiff came to be relieved from Service. The letter issued by the plaintiff is accordingly exhibited at **Exh.56** in the Co-operative Court and the said resolution dated 30/06/2007 also came to be exhibited at **Exh.58**.

23] It is further pleaded by defendant Bank that the plaintiff has no locus standi to file present suit against the defendant Bank in

view of his resignation letter dated 21/06/2007. The plaintiff has not cross-examined the prime witnesses before the Enquiry Officer and their testimony remained unchallenged and therefore, the present suit challenging said enquiry report is also not tenable under the law and this is not the proper forum where that enquiry report can be challenged.

24] It is further pleaded by defendant Bank that plaintiff filed present suit before this Court after the dispute came to be returned to the plaintiff by the Co-operative Court, Akola by order dated 25/09/2017 holding therein that the Co-operative Court has no jurisdiction and specifically averred that dispute is going to be returned to the plaintiff for presenting it before the proper forum/Court and plaintiff chose this Court as proper forum/Court. However, this Court can not be a proper forum or Court for presenting this dispute/suit and therefore, this Court is not having jurisdiction to entertain present suit. Thus, present suit is deserved to be dismissed for want of jurisdiction. It is further pleaded by defendant Bank that present suit is also hopelessly barred by law of limitation. Hence, it is prayed for dismissal of suit with compensatory costs of Rs.1,00,000/-.

25] Upon going through the rival pleadings of both parties, my Ld. Predecessor has framed the issues at **Exh.20** which are reproduced below and I have recorded my findings thereon for the reasons stated below -

Sr. No.	ISSUES	FINDINGS
01]	Whether the plaintiff proves that enquiry conducted by the defendant Bank against him is illegal, unlawful and invalid ?	In the negative.
02]	Whether the plaintiff proves that the resolution passed by the defendant Bank dated 30/06/2007 is illegal as alleged ?	In the negative.
03]	Whether the plaintiff proves that the order passed by the defendant dated 02/07/2007 for removal of the plaintiff is illegal as alleged ?	In the negative.
04]	Whether this Court is having jurisdiction to try and entertain the suit ?	In the affirmative.
05]	Whether the plaintiff is entitled for declaration as prayed ?	In the negative.
06]	Whether the plaintiff is entitled for damages as prayed ?	In the negative.
07]	What order and decree ?	Suit is dismissed with costs.

REASONS

26] In order to prove his case, the plaintiff has filed an affidavit of his examination-in-chief at **Exh.31** as P.W.1. Apart from this, the plaintiff has filed following documentary evidence in support of his case as under -

- 1) Original copy of letter dated 12/10/2017 issued by Bench Clerk of Co-operative Court, Akola.
- 2) Original copy of judgment and order dated 25/09/2017 passed by the Judge, Co-operative

Court, Akola.

- 3) Photocopy of statement dated 03/04/2007 given by Santosh Balappa Jirwankar.
- 4) Photocopy of letter dated 02/07/2007 addressed to the plaintiff by General Manager of defendant Bank.
- 5) Photocopy of letter dated 05/05/2005 addressed to the plaintiff by General Manager of defendant Bank.
- 6) Photocopy of letter dated 17/05/2005 addressed to the plaintiff by General Manager of defendant Bank.
- 7) Original copy of written statement filed by opponent Bank before the Judge, Co-operative Court, Amravati.
- 8) Photocopy of Agenda No.14 for discussion in respect of enquiry report given by Enquiry Officer Advocate Shri. S. N. Welankar about the plaintiff's misconduct.
- 9) Photocopy of letter dated 01/06/2007 addressed to the plaintiff by General Manager of defendant Bank.
- 10) Photocopy of letter dated 21/06/2007 addressed to the Chairman of defendant Bank, Head Office Jintur by the plaintiff.
- 11) Photocopy of resolution dated 30/06/2007 passed in the meeting of Board of Directors of defendant Bank.

- 12) Photocopy of letter dated 02/07/2007 addressed to the plaintiff by General Manager of defendant Bank.
- 13) Photocopy of enquiry report dated 03/05/2007 submitted by Enquiry Officer Advocate Shri. S. N. Welankar.
- 14) Photocopy of order sheets/roznama of enquiry proceeding conducted in respect of plaintiff during the period from 22/12/2006 to 03/04/2007.
- 15) Photocopy of letter dated 22/12/2006 addressed to the Advocate Shri. S. N. Welankar, Parbhani regarding his appointment as an Enquiry Officer.
- 16) Photocopy of letter dated 04/01/2007 addressed to the Advocate Shri. S. N. Welankar, Parbhani by General Manager of defendant Bank.
- 17) Photocopy of complaint dated 10/11/2006 made by Sunita Bhawarilal Saraswat against the plaintiff.
- 18) Photocopy of complaint dated 14/11/2006 made by Varsha Pradeepkumar Khedkar against the plaintiff.
- 19) Photocopy of transfer order of plaintiff issued by General Manager of defendant Bank on 25/11/2007.
- 20) Photocopy of relieve order of plaintiff issued by Branch Manager, Branch Karanja of defendant Bank on 25/11/2006.
- 21) Photocopy of letter dated 25/11/2006 addressed to Sau. V. P. Khedkar by General Manager of

defendant Bank.

- 22) Photocopy of letter dated 25/11/2006 addressed to Sau. S. B. Saraswat by General Manager of defendant Bank.
- 23) Photocopy of charge-sheet dated 22/12/2006 given to the plaintiff by General Manager of defendant Bank.
- 24) Photocopy of letter dated 27/11/2006 addressed to the General Manager of defendant Bank by the plaintiff.
- 25) Photocopy of notice dated 08/01/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to Sau. V. P. Khedkar and Sau. S. B. Saraswat.
- 26) Photocopy of notice dated 08/01/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to the plaintiff.
- 27) Photocopy of notice dated 25/01/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to the plaintiff and Sau. V. P. Khedkar and Sau. S. B. Saraswat.
- 28) Photocopy of preliminary statement dated 01/02/2007 given by Sau. S. B. Saraswat before Enquiry Officer Advocate Shri. S. N. Welankar.
- 29) Photocopy of preliminary statement dated 01/02/2007 given by Sau. V. P. Khedkar before Enquiry Officer Advocate Shri. S. N. Welankar.
- 30) Photocopy of preliminary statement dated 01/02/2007 given by plaintiff before Enquiry Officer Advocate Shri. S. N. Welankar.

- 31) Photocopy of notice dated 01/03/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to the plaintiff and Sau. V. P. Khedkar and Sau. S. B. Saraswat.
- 32) Photocopy of letter dated 06/02/2007 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Sau. S. B. Saraswat.
- 33) Photocopy of letter dated 02/02/2007 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Sau. V. P. Khedkar.
- 34) Photocopy of statement of Sau. V. P. Khedkar recorded on 03/03/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 35) Photocopy of statement of Sau. S. B. Saraswat. recorded on 03/03/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 36) Photocopy of letter dated 05/03/2007 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Manager (Administration Section) of defendant Bank.
- 37) Photocopy of letter dated 01/03/2007 addressed to the General Manager of defendant Bank by plaintiff.
- 38) Photocopy of explanation dated 09/01/2007 given by plaintiff to General Manager of defendant Bank in respect of complaint about his misconduct.
- 39) Photocopy of letter dated 26/11/2006 addressed to the General Manager of defendant Bank by the Manager Chidrawar in respect of preliminary

enquiry.

- 40) Photocopy of representation (A) dated 25/11/2006 addressed to the General Manager of defendant Bank by Sau. V. P. Khedkar.
- 41) Photocopy of representation (B) dated 25/11/2006 addressed to the General Manager of defendant Bank by Sau. V. P. Khedkar.
- 42) Photocopy of representation dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Sau. S. B. Saraswat.
- 43) Photocopy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. V. V. Avghan.
- 44) Photocopy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. P. P. Parghane.
- 45) Photocopy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. D. M. Chumbade.
- 46) Photocopy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. S. R. Gulwade.
- 47) Photocopy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. S. R. Gadekar.
- 48) Photocopy of notice dated 29/03/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to the plaintiff, Sau. V. P. Khedkar, Sau. S. B. Saraswat and other witnesses.

- 49) Photocopy of statement of Sau. V. P. Khedkar recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 50) Photocopy of statement of Sau. S. B. Saraswat recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 51) Photocopy of statement of Shri. S. R. Gulwade recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 52) Photocopy of statement of Shri. G. M. Khandare recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 53) Photocopy of statement of Shri. P. P. Parghane recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 54) Photocopy of statement of Shri. V. V. Avghan recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 55) Photocopy of statement of Shri. S. R. Gadekar recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 56) Photocopy of statement of Shri. D. M. Chumbade. recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 57) Photocopy of statement of Shri. S. B. Jirwankar recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar.
- 58) Photocopy of statement of plaintiff recorded on

03/04/2007 by Enquiry Officer Advocate Shri. S.
N. Welankar.

27] On the contrary, on behalf of defendant, pursis came to be filed at **Exh.71** thereby informing that defendant Bank does not want to lead any oral evidence. However, defendant Bank has relied upon following documentary evidence in support of its defence as under -

- 1) Original copy of order sheets/roznama of enquiry proceeding conducted in respect of plaintiff during the period from 22/12/2006 to 03/04/2007.
- 2) Original copy of letter dated 22/12/2006 addressed to the Advocate Shri. S. N. Welankar, Parbhani regarding his appointment as an Enquiry Officer.
- 3) Original copy of letter dated 04/01/2007 addressed to the Advocate Shri. S. N. Welankar, Parbhani regarding submission of documents by General Manager of defendant Bank.
- 4) Verified copy of complaint dated 10/11/2006 made by Sunita Bhawarilal Saraswat against the plaintiff.
- 5) Verified copy of complaint dated 14/11/2006 made by Varsha Pradeepkumar Khedkar against the plaintiff.

- 6) Photocopy of transfer order of plaintiff issued by General Manager of defendant Bank on 25/11/2007.
- 7) Photocopy of relieve order of plaintiff issued by Branch Manager, Branch Karanja of defendant Bank on 25/11/2006.
- 8) Photocopy of letter dated 25/11/2006 addressed to Sau. V. P. Khedkar by General Manager of defendant Bank regarding transfer of plaintiff.
- 9) Photocopy of letter dated 25/11/2006 addressed to Sau. S. B. Saraswat by General Manager of defendant Bank regarding transfer of plaintiff.
- 10) Photocopy of charge-sheet dated 22/12/2006 given to the plaintiff by General Manager of defendant Bank.
- 11) Photocopy of letter dated 27/11/2006 addressed to the General Manager of defendant Bank by the plaintiff.
- 12) Office copy of notice dated 08/01/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to Sau. V. P. Khedkar and Sau. S. B. Saraswat.

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- 13) Office copy of notice dated 08/01/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to the plaintiff.
- 14) Office copy of notice dated 25/01/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to the plaintiff and Sau. V. P. Khedkar and Sau. S. B. Saraswat.
- 15) Original copy of preliminary statement dated 01/02/2007 given by Sau. S. B. Saraswat before Enquiry Officer Advocate Shri. S. N. Welankar.
- 16) Original copy of preliminary statement dated 01/02/2007 given by Sau. V. P. Khedkar before Enquiry Officer Advocate Shri. S. N. Welankar.
- 17) Original copy of preliminary statement dated 01/02/2007 given by plaintiff before Enquiry Officer Advocate Shri. S. N. Welankar.
- 18) Original copy of notice dated 01/03/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to the plaintiff and Sau. V. P. Khedkar and Sau. S. B. Saraswat.
- 19) Original copy of letter dated 06/02/2007 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Sau. S. B. Saraswat.

- 20) Original copy of letter dated 02/02/2007 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Sau. V. P. Khedkar.
- 21) Original copy of statement of Sau. V. P. Khedkar recorded on 03/03/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.52)**.
- 22) Original copy of statement of Sau. S. B. Saraswat. recorded on 03/03/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.53)**.
- 23) Original copy of letter dated 05/03/2007 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Manager (Administration Section) of defendant Bank.
- 24) Photocopy of letter dated 01/03/2007 addressed to the General Manager of defendant Bank by plaintiff.
- 25) Photocopy of explanation dated 09/01/2007 given by plaintiff to General Manager of defendant Bank in respect of complaint about his misconduct.
- 26) Verified copy of letter dated 26/11/2006 addressed to the General Manager of defendant Bank by the Manager Chidrawar in respect of preliminary enquiry.

- 27) Verified copy of representation (A) dated 25/11/2006 addressed to the General Manager of defendant Bank by Sau. V. P. Khedkar.
- 28) Verified copy of representation (B) dated 25/11/2006 addressed to the General Manager of defendant Bank by Sau. V. P. Khedkar.
- 29) Verified copy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Sau. S. B. Saraswat.
- 30) Verified copy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. V. V. Avghan.
- 31) Verified copy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. P. P. Parghane.
- 32) Verified copy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. D. M. Chumbade.
- 33) Verified copy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. S. R. Gulwade.
- 34) Verified copy of letter dated 25/11/2006 addressed to the General Manager of defendant Bank by Shri. S. R. Gadekar.

- 35) Verified copy of letter dated 25/11/2006 addressed to the Enquiry Officer Advocate Shri. S. N. Welankar by Shri. G. M. Khandare.
- 36) Original copy of notice dated 29/03/2007 given by Enquiry Officer Advocate Shri. S. N. Welankar to the plaintiff, Sau. V. P. Khedkar, Sau. S. B. Saraswat and other witnesses.
- 37) Original copy of statement of Sau. V. P. Khedkar recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.54)**.
- 38) Original copy of statement of Sau. S. B. Saraswat recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.55)**.
- 39) Original copy of statement of Shri. S. R. Gulwade recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.56)**.
- 40) Original copy of statement of Shri. G. M. Khandare recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.57)**.
- 41) Original copy of statement of Shri. P. P. Parghane recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.58)**.
- 42) Original copy of statement of Shri. V. V. Avghan recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.59)**.
- 43) Original copy of statement of Shri. S. R. Gadekar

recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.60)**.

- 44) Original copy of statement of Shri. D. M. Chumbade recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.61)**.
- 45) Original copy of statement of Shri. S. B. Jirwankar recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.62)**.
- 46) Original copy of statement of plaintiff recorded on 03/04/2007 by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.63)**.
- 47) True copy of enquiry report dated 03/05/2007 submitted by Enquiry Officer Advocate Shri. S. N. Welankar **(Exh.67)**.
- 48) Original copy of resolution dated 30/06/2007 passed in the meeting of Board of Directors of defendant Bank.
- 49) True copy of letter dated 21/06/2007 addressed to the Chairman of defendant Bank, Head Office Jintur by the plaintiff **(Exh.64)**.

28] Heard arguments of learned advocate for plaintiff and learned advocate for defendant at length. Also perused written notes of argument submitted on behalf of plaintiff at **Exh.74** and written notes of argument submitted on behalf of defendant at **Exh.77**.

AS TO ISSUE NOS.1 TO 3 :-

29] During the course of argument, learned advocate for plaintiff has vehemently argued that the entire process adopted while conducting the alleged departmental enquiry of plaintiff by defendant Bank through its Enquiry Officer namely Advocate Shri. S. N. Welankar on the basis of false complaints made by two lady employees namely Smt. Sunita Bhawarilal Saraswat and Smt. Varsha Pradeepkumar Khedkar working in the Karanja Branch of defendant Bank against the plaintiff regarding their sexual harassment by him, was illegal, bias and totally against the principles of natural justice and equity as the plaintiff was not provided an effective opportunity of defending himself.

30] It is further argued that the plaintiff was having good and unblemished service record during the services rendered by him at various branches of the defendant Bank. Despite this, the plaintiff came to be constrained by the defendant Bank to face illegal departmental enquiry on the basis of aforesaid false complaints resulting in his removal from service illegally. When the plaintiff being the Manager of Karanja Branch of the defendant Bank pointed out the negligence of said two lady employees in their duties, said two lady employees made false complaints about their sexual harassment by the plaintiff. As such, the very foundation of departmental enquiry which was conducted against the plaintiff is baseless.

31] It is further argued that no specific charge and allegations were made in the charge-sheet against the plaintiff regarding his so called misbehavior alleged to have been committed by him. Not only this, the plaintiff was not given fair opportunity to submit his explanation before initiating departmental enquiry against him. During departmental enquiry, plaintiff was not given an opportunity of taking cross-examination of witnesses by the Enquiry Officer thereby violating the basic principles of natural justice and equity by the concerned Enquiry Officer. The departmental enquiry initiated against the plaintiff and action of his removal from the service was predetermined by the defendant Bank. The Enquiry Officer himself acted as a Presenting Officer at the instance of defendant Bank. Even resolution passed by the Managing Committee of defendant Bank on 30/06/2007 as well as order dated 02/07/2007 passed by the defendant Bank for removal of plaintiff were totally illegal and against the rules of co-operative societies and also against the service rules.

32] It is further argued that the departmental enquiry conducted on the allegations of sexual harassment of two lady employees does not fall in any way under Section 146 of Maharashtra Co-operative Societies Act, 1960 as specific offences given under Clause (A) to (Q) of that Section are not covering the alleged charges which were levelled against the plaintiff. Moreover, allegations made against the plaintiff are the offences punishable

under I.P.C. for which specific remedy has been provided to launch criminal proceeding against him. However, instead of adopting this proper mode, the defendant Bank deliberately initiated fake departmental enquiry against the plaintiff.

33] It is further argued that Section 27 of General Clauses Act, 1897 specifically enables prosecution under any of the alternative provisions if the said act constitutes offences under two or more penal laws. As per said section, if an act constitutes an offence under I.P.C. as well as under the Maharashtra Co-operative Societies Act, 1960 then it is open and permissible for prosecution to choose to prosecute under the provision of I.P.C. alone. The departmental enquiry does not fall within the scope of Section 146 under the Maharashtra Co-operative Societies Act, 1960 and therefore, the defendant Bank should have chosen proper remedy of initiating criminal prosecution against the plaintiff in the criminal Court instead of conducting illegal departmental enquiry. In support of his contention, learned advocate for plaintiff has relied upon the judgment of the Hon'ble Bombay High Court in the case of **Waman Sambhaji Duka Vs. Narhari Sambhajirao Phatale** reported in AIR 1968 Bombay 124.

34] It is further argued that even the preliminary enquiry conducted by Shri. A. B. Chidrawar against the plaintiff was illegal as it was conducted behind the back of plaintiff during the transfer of

plaintiff and during his leave. Not only this, the defendant Bank has not examined any witnesses in support of its averments in written statement. The concerned two lady employees have also not been examined as witnesses on behalf of the defendant Bank in the present suit. As such, adverse inference requires to be drawn against the defendant as no witnesses on behalf of defendant Bank including said two lady employees have stepped into witness box for facing cross-examination likely to be taken by the plaintiff. In support of his contention, learned advocate for plaintiff has relied upon the judgment of the Hon'ble Supreme Court in the case of **Vidhyadhar Vs. Manikrao reported in 1993 (3) SCC 573**. Finally, learned advocate for plaintiff has prayed for passing decree in favour of plaintiff in terms of the prayers made by him.

35] On the contrary, during the course of argument, learned advocate for defendant has vehemently submitted that the present suit is nothing but the abuse of process of law amounting to wastage of precious time of the Court. It is further submitted that the allegations regarding breach of principles of natural justice while conducting departmental enquiry as made by the plaintiff in the present suit are totally baseless and false. In fact, during departmental enquiry, it was found that the plaintiff was indulged in indecent behavior with the two lady employees who were working in the Karanja Branch of defendant Bank.

36] It is further argued that during cross-examination of plaintiff, truth has been brought on record by the defendant and the plaintiff himself admitted that he has given resignation of his post vide letter at **Exh.64**. Moreover, during departmental enquiry, an opportunity was given to the plaintiff to cross-examine the witnesses who stated against him but the plaintiff expressly refused to take cross-examination of said witnesses. During his cross-examination, it has been brought on record that statements of witnesses were recorded by the concerned Enquiry Officer in presence of plaintiff and the plaintiff had also put his signatures on the said statements. Not only this, the plaintiff also admitted during his cross-examination that his signatures were not obtained forcefully by the concerned Enquiry Officer.

37] It is further argued that it becomes crystal clear that plaintiff was given full opportunity of taking participation in departmental enquiry and he was also permitted to take cross-examination of witnesses but he did not avail the said opportunity for the reasons best known to him. As such, the plaintiff can not allege that the departmental enquiry conducted by the concerned Enquiry Officer against him was illegal, bias and invalid and it was in total breach of principles of natural justice. Therefore, the plaintiff has absolutely failed to prove his averments by producing cogent and convincing evidence. Hence, finally learned advocate for defendant has prayed for dismissal of present suit with compensatory costs of

Rs.1,00,000/-

38] Considering the rival submissions of learned advocates appearing for the parties, it appears that it is the main contention of plaintiff that the entire process adopted while conducting the alleged departmental enquiry against him by defendant Bank through its Enquiry Officer namely Advocate Shri. S. N. Welankar on the basis of false complaints made by two lady employees namely Smt. Sunita Bhawarilal Saraswat and Smt. Varsha Pradeepkumar Khedkar working in the Karanja Branch of defendant Bank against him regarding their sexual harassment by him, was illegal, bias and totally against the principles of natural justice and equity as the plaintiff was not provided an effective opportunity of defending himself and he was also not permitted by concerned Enquiry Officer to take cross-examination of witnesses examined during his departmental enquiry.

39] Now coming to the evidence led to prove aforesaid main contention of plaintiff, he has filed an affidavit of his examination in chief at **Exh.31** as PW-1. On perusal of said evidence affidavit, it appears that the plaintiff has deposed in said affidavit as per his averments in the plaint. However, if the cross-examination of plaintiff is minutely perused then it clearly appears that during cross-examination, he has admitted that he was came to be informed about the appointment of Shri. Welankar as an Enquiry Officer. He further admitted that during departmental enquiry, Enquiry Officer Shri.

Welankar had sent charge-sheet to him. He further clearly admitted that the copies of complaints made by concerned two lady employees working in the defendant Bank were provided to him.

40] Not only this, the plaintiff has also clearly admitted during his cross-examination that the statements of witnesses namely Sau. V. P. Khedkar, Sau. S. B. Saraswat, Shri. S. R. Gulwade, Shri. D. M. Chumbade, Shri. P. P. Parghane, Shri. V. V. Avghan, Shri. S. R. Gadekar, Shri. S. N. Welankar, Shri. G. M. Khandare and Shri. S. B. Jirwankar were recorded by the Enquiry Officer Shri. Welankar in his presence. The plaintiff further admitted that his signatures appearing on the statements of all witnesses were not obtained forcefully by the concerned Enquiry Officer Shri. Welankar.

41] It is pertinent to note here that the plaintiff has also clearly admitted during his cross-examination that he has not made any oral or written complaint against Enquiry Officer Shri. Welankar. Moreover, the plaintiff has also admitted that after completion of departmental enquiry, he was provided a copy of enquiry report by the Enquiry Officer Shri. Welankar. Not only this, the plaintiff also admitted that he was not pressurized by anybody to tender his resignation.

42] It is further pertinent to note here that on perusal of aforesaid statements of witnesses which came to be exhibited as **Exh.52** to **Exh.62** during cross-examination of plaintiff, it clearly

appears that plaintiff was given an opportunity of cross-examining said witnesses by the concerned Enquiry Officer Shri. Welankar but the plaintiff had only cross-examined some witnesses and he refused to take cross-examination of some witnesses. Not only this, on perusal of plaintiff's statement at **Exh.63** which was recorded by the Enquiry Officer Shri. Welankar on 03/04/2007, it clearly appears that the plaintiff himself stated that Enquiry Officer Shri. Welankar has given plaintiff a full opportunity of his defence and he has no complaint in respect of that.

43] It is to be noted here that after considering the oral and documentary evidence on record, it becomes crystal clear that the allegations of plaintiff regarding breach of principles of natural justice during his departmental enquiry at the hands of concerned Enquiry Officer Shri. Welankar are totally baseless and the same are not supported by cogent and convincing evidence. Not only this, the judgments cited supra by the learned advocate for plaintiff in the case of **Waman Sambhaji Duka Vs. Narhari Sambhajirao Phatale reported in AIR 1968 Bombay 124** and **Vidhyadhar Vs. Manikrao reported in 1993 (3) SCC 573**, with due respect, are not helpful for the plaintiff in the present suit because the facts and circumstances of cited cases are totally different from the facts and circumstances of the present suit. In the case of **Waman Sambhaji Duka**, it was a criminal proceeding under Section 406, 467 and 420 of I.P.C.. Moreover, in the case of **Vidhyadhar**, it was observed by the Hon'ble Supreme Court that if the party is not entering into witness box to

give evidence in support of his or her claim then adverse inference can be drawn against such party. However, in the present suit, entire burden was upon the plaintiff to prove his case and defendant was not required to prove anything. As such, merely because defendant has not entered into witness box, no adverse inference can be drawn against defendant as argued by learned advocate for plaintiff.

44] Apart from this, from the record, it clearly appears that during departmental enquiry as conducted by Enquiry Officer Shri. Welankar, the plaintiff had waived his right to the principles of natural justice due to his own actions by declining to take cross-examination of concerned witnesses. Here, it will be appropriate to refer the observation of the Hon'ble Supreme Court in the case of **Board of Directors Himachal Pradesh Transport Corporation Vs. HC Rahi reported in (2008) 11 SCC 502**, wherein the Hon'ble Supreme Court has observed that the principles of natural justice can not be viewed in a rigid manner. The application of these principles depends on the facts and circumstances of each individual case. To sustain the plea of violation of principles of natural justice, one must establish how he has been prejudiced by the violation. In the present case, respondent was aware of the disciplinary proceedings, yet, refused to participate in the same. It can be inferred from the respondent's actions that he had waived any right to natural justice.

45] As such, in view of oral and documentary evidence available on record, I hold that the plaintiff has failed to prove that

enquiry conducted by the defendant Bank against him is illegal, unlawful and invalid. Moreover, the plaintiff has also failed to prove that resolution dated 30/06/2007 is illegal and order dated 02/07/2007 passed by the defendant for removal of the plaintiff is illegal. Hence, I answer issue Nos.1 to 3 in negative.

AS TO ISSUE NO.4 :-

46] During the course of argument, learned advocate for defendant has categorically argued that the present suit is not tenable before this Court as this Court is not having jurisdiction to entertain and try the present suit in view of the facts and the circumstances of the present suit. Plaintiff filed present suit before this Court after the dispute came to be returned to the plaintiff by the Co-operative Court, Akola by order dated 25/09/2017 holding therein that the Co-operative Court has no jurisdiction and specifically averred that dispute is going to be returned to the plaintiff for presenting it before the proper forum/Court and plaintiff chose this Court as proper forum/Court. However, this Court can not be a proper forum or Court for presenting this dispute/suit and therefore, this Court is not having jurisdiction to entertain present suit.

47] It is further argued that the defendant Bank is a registered society under the Maharashtra Co-operative Societies Act, 1960 and the plaintiff was an employee of the Bank. The plaintiff came to be removed from the service by the defendant Bank on the basis of

result of departmental enquiry which was initiated against him. However, the jurisdiction of Civil Court is barred under Section 14 of the Specific Relief Act, 1963 as the plaintiff being employee of co-operative society has no protection of statutory body as the co-operative societies are not the statutory bodies. As such, the present suit is not tenable before this Court and it should have been filed before the Industrial Court. In support of his submissions learned advocate for defendant relied upon the judgment of the Hon'ble Supreme Court in the case of **Rajni Vs. Rama Seva Samiti (Regd.) & Anr., decided on 26 September 2008 in Civil Appeal No.5882/2008** and also upon the judgment of the Hon'ble Bombay High Court in the case of **Saumyendra Nath Mookherjea Vs. ANZ Grindlays Bank, Bombay, reported in 1991 Mh.L.J. 926.**

48] On the contrary, learned advocate for plaintiff has argued that this Court is having jurisdiction to entertain and try present suit in view of reliefs sought by the plaintiff. Moreover, it is further argued that the defendant had filed application at **Exh.14** by taking preliminary objection regarding the jurisdiction of this Court to try present suit on the similar grounds which was rejected by this Court vide order dated 08/01/2021 by relying upon the judgment of the Hon'ble Supreme Court in the case of **Maharashtra State Co-operative Housing Finance Corporation Ltd. Vs. Prabhakar Sitaram Bhadange reported AIR 2017 SC 1647.** The said order dated 08/01/2021 has not been challenged by the defendant before

Appellate Court and therefore, said order attained finality. As such, defendant can not seek dismissal of suit on same ground as present suit is very well maintainable before this Court.

49] It is pertinent to note here that considering the submissions of learned advocate for parties on the point of jurisdiction of this Court to try present suit, I found substance in the submissions of learned advocate for plaintiff that this Court is having jurisdiction to try present suit. It is to be noted here that certainly this Court is not empowered to grant relief of reinstatement as sought by the plaintiff. However, so far as the other prayers of the plaintiff are concerned, it is held that this Court is having jurisdiction to try present suit in view of observations of the Hon'ble Supreme Court in the case of **Maharashtra State Co-operative Housing Finance Corporation Ltd. Vs. Prabhakar Sitaram Bhadange** reported AIR 2017 SC 1647. Apart from this, the judgments cited supra by learned advocate for defendant in the case of **Rajni Vs. Rama Seva Samiti (Regd.) & Anr.**, decided on 26 September 2008 in Civil Appeal No.5882/2008 and **Saumyendra Nath Mookherjea Vs. ANZ Grindlays Bank, Bombay**, reported in 1991 Mh.L.J. 926, with due respect, are not helpful to the defendant in the present suit as the facts and circumstances of cited cases are different from the facts and circumstances of present suit. It is well established principles of law that facts and circumstances of each case can be distinguished. Thus, I hold that this Court is having jurisdiction to entertain and try present suit. Hence, I answer issue Nos.4 in affirmative.

AS TO ISSUE NOS.5 to 7 :-

50] In view of the findings recorded against issue Nos.1 to 3, I hold that plaintiff is not entitled to the reliefs prayed by him and therefore, I answer issue Nos.5 and 6 in negative and in answer to issue No.7, following order is passed.

ORDER

- 1] Present suit is dismissed with costs.
- 2] Decree be drawn up accordingly.

(Dictated & pronounced in the open Court.)

Date - 18/04/2026.

(S. W. Thombre)
Civil Judge, (Sr.Dn.),
Karanja (Lad).

Sudhir Madhukarrao Nakhate Vs. Sundarlal Saoji
Urban Co-operative Bank Ltd., Jintur,
through its General Manager, Jintur
Judgment (**Exh.78**)

CERTIFICATE

I affirm that the contents of this PDF file judgment/order are same word to word, as per original judgment/order.

- 1) Name of Stenographer :- S. P. Kale (Stenographer G-III)
- 2) Name of Court :- Civil Judge (S.D.), Washim.
- 3) Date :- 18/04/2026
- 4) Order signed by the presiding officer on :- 18/04/2026
- 5) Order uploaded on :- 18/04/2026