

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
SUIT NO. 2635 OF 2008

Bhandari Mandal & Ors ...Plaintiffs
Versus
The Bhandari Cooperative Bank Ltd & Anr ...Defendants

Mr Gauraj Shah, with Ms Reshma Chitnis Potdar & Mr Akshay
Sawant, i/b M/s Chitnis Vaithy & Company, for the Plaintiffs.
Mr Ajay David, for Defendant No.1.
Mr Sanjiv Kadam, for Defendant No.2.

CORAM: G.S. PATEL, J
DATED: 10th January 2019

PC:-

1. Mr Shah for the Plaintiffs point out that Section 107 of the Maharashtra Cooperative Societies Act requires the prior permission of the Registrar before even a pending suit is continued against the society that goes into liquidation.

2. In the present case the 1st Defendant is a cooperative bank. It is in liquidation. The Defendants filed a Chamber Summons for impleadment of the liquidator of the 1st Defendant society-bank. It then had to file a Notice of Motion for restoration of that Chamber Summons. I allowed both the Notice of Motion and the Chamber Summons on 11th December 2018. The Learned Advocate for the

Defendants is correct that such application ought to have been made by the Plaintiffs and they should not be allowed to delay the suit by now taking further time in obtaining permission from the Registrar. But this does not mean that the necessary permission can be dispensed with. The wording of Section 107 is clear and Mr Shah is correct in saying that the result of the suit should not be imperilled for want of this permission, or an application for that permission.

3. I will therefore direct the Registrar/Competent Authority to consider the matter including my order of 11th December 2018 and the present order and pass the necessary orders so that the suit can continue.

4. In the meantime the Plaintiffs will take the necessary steps in regard to any of the Plaintiffs who have passed away bearing in mind that the 1st Plaintiff is a Trust and the other Plaintiffs were joined as Trustees of that Trust and there can, therefore, be no question of impleading their heirs and legal representatives as Plaintiffs. At best newly appointed Trustees will have to be impleaded. I will permit any such amendment even on a praecipe and on mentioning provided draft amendments are presented to me.

(G. S. PATEL, J)