

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 3674 OF 2021

(Tanaji Ramdas Firke & Anr. V/s Radhakrishnan Nagari Sahakari Pat Sanstha, Malkapur & Ors.)

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Prothonotary's orders	Court's or Judge's orders
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Mr. R. L. Khapre, Senior Advocate for Petitioners.
Mr. K. L. Dharmadhikari, AGP for Respondent No.6.

CORAM : AVINASH G. GHAROTE, J.
DATE : SEPTEMBER 23, 2021.

Heard. Mr. Khapre, learned Senior Counsel submits that the Recovery Certificate is for a sum of Rs. 1,67,72,735/-. He submits that the Recovery Certificate under Section 101 of Maharashtra Co-operative Societies Act *[hereinafter be referred to as 'the said Act' for the sake of convenience]* has been issued in violation of the provisions of Rules 86A to 86F of the Maharashtra Co-operative Societies Rules, 1961 *[hereinafter be referred to as 'the said Rules' for the sake of brevity]*, and therefore, the same would be required to be quashed and set aside. He further submits that though the initial loan amount was only Rs. 25,00,000/-, the accounts incorrectly show the same to have been inflated to Rs.93,00,000/- and odd, the rest of the amount being the so called interest. He further submits

that under the terms of the Partnership Deed, Petitioners were not liable, unless the application for loan was jointly made, which according to him, is not the case in the present matter.

2. He further submits, that in spite of the remedy under Section 154 of the said Act, the present Petition would be maintainable, for the reason that, there is violation of the statutory requirements, as contained in Rules 86A to 86F of the said Rules. In order to show his *bona fides*, he submits that the Petitioners are willing to deposit the amount of Rs.40,00,000/- in this Court, out of which, a sum of Rs.25,00,000/- would be deposited within a period of two weeks, and the balance within one month thereafter. The statement is accepted, in view of which, the proceedings for the enforcement of the Recovery Certificate dated 28/6/2021, is hereby stayed, only as against the Petitioners. It is made clear, that if there is default in depositing the sum of Rs.25,00,000/- within the period of two weeks from today, the stay granted, shall automatically stand vacated, without reference to this Court, and in such circumstances, the Respondent No.1 shall be free to execute the Recovery Certificate against the Respondent Nos.2 to 5, in view of which, issue notice to the Respondents, returnable in two weeks.

3. Mr. Dharmadhikari, learned AGP waives notice for the Respondent No.6.

4. Petitioners to serve the other Respondents, by all modes permissible in law, including email and Whatsapp. Hamdast granted, if prayed for.

5. Learned AGP to intimate the Respondent No.7-Special Recovery Officer regarding the above order.

(AVINASH G. GHAROTE, J.)

Yadav VG