

(2022) 12 BOM CK 0078

In the Bombay High Court

Case No : Writ Petition No.6972 Of 2022

Bhaichand Hirachand Raison, Multi State Co-Operative Credit
Society Ltd

APPELLANT

Vs

District Consumer Disputes Redressal Forum And Others

RESPONDENT

Date of Decision : 19-12-2022

Acts Referred:

Citation : (2022) 12 BOM CK 0078

Hon'ble Judges : Sunil B. Shukre, J;M.W. Chandwani, J

Bench : Division Bench

Advocate : S. P. Deshpande, S.M.Ghodeswar, V.K.Paliwal

Final Decision : Allowed/Partly Allowed

Judgement

Sunil B.Shukre, J

(1) Heard.

(2) Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

(3) Learned counsel appearing for the petitioner submits that the society was not a party before Consumer Forum and it was also not the party to the certificate issued by District Consumer Redressal Forum, Washim and therefore, no judgment and order directing the society to pay to the complainant an amount of Rs.10,88,052/- together with the compensation could have been delivered by the District Consumer Redressal Forum. It is also submitted that when the direction for payment of certain amount together with compensation was issued to the founder chairman and the directors of the Society, there was no reason for the Consumer Redressal Forum, to have directed the Union Bank of India, which maintains accounts of the Society, to freeze the account and that too at a time when the Society had already been put to liquidation and the liquidator appointed. It is further submitted that after appointment of the liquidator, the question of priority of dues would arise and ordinarily, the dues of the Society

and the statutory dues would take precedence over the dues of the private persons like the respondent No.4.

(4) Learned counsel for respondent No.4 submits that respondent No.4 does not wish to file any reply in the matter and is ready to argue the petition finally. However, respondent Nos.1 to 3 have not filed any reply and learned AGP submits that he does not have any instructions in the matter. We take that respondent Nos.1 to 3 do not wish to file any reply or otherwise they would have given instructions to the learned AGP.

(5) Learned counsel for respondent No.4 submits that the matter can be remanded back to the Consumer Forum with a direction to reconsider the issue and dispose it of within time bound period in accordance with law.

(6) In normal course, we would have accepted the suggestion of learned counsel for respondent No.4, but the facts and circumstances of this case indicate that this is a case which is an exception to what is seen by us as normal. The judgment and order dated 30th January 2015 issues a direction for payment of certain amount together with compensation amount against the founder chairman and directors of the petitioner Society and not against the petitioner Society as such. Similarly, the recovery certificate has also been issued against the Founder Chairman and Directors of the petitioner Society and not against the petitioner Society. In such circumstances, the account of the petitioner Society could not have been directed to be frozen by the concerned forum. If any account/s was/were to be directed to be frozen, it were the account/s of the Founder Chairman or the Directors of the Society in their individual capacities, but that has not been done in this case and therefore, the impugned order cannot be upheld by this Court. Similar is the view taken by the learned Single Judge in criminal Writ Petition No.798 of 2021 (Chaitanya Haribhau Nasare Vs. Sau. Mayuri Milind Kabra. In these circumstances and this is the reason why, it is not possible for this Court to remand the matter back to the Consumer Forum and therefore the suggestion given by learned counsel for respondent No.4 is rejected.

(7) In the result, we are of the opinion that this Writ Petition deserves to be allowed and it is allowed partly in terms of prayer clause (b) which reads as under:

(b) Quash and set aside the impugned communication/order dated 14/10/2022 issued/passed by the Learned Tahsildar Jalgaon, thereby freezed the bank account, bearing No.341602010192314 of Union Bank of India, Branch Navipeth, Jalgaon, of the petitioner.

(8) Rule is made absolute in the above terms. No costs.