IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1934 OF 2017

Shri Madhukar Mahadev Patil,
Age : 61 years, Occu : Agriculturist,
R/o. Ashta, Tal. Walva,
Dist. Sangli ..... Petitioner

Versus

Sangli Zilla Madhyawarti Sahakari Bank Ltd., having its office at Karmaveer Bhaurao Patil Chowk, Sangli,
Tal. Miraj, Dist. Sangli ..... Respondent

Mr. S. S. Panchpor a/w. Mr. G. D. Tamboli i/b. SNP Legal for the Petitioner.
Mr. Mayank Tripathi i/b. Mr. Bhushan Walimbe for the Respondent.

CORAM: GAURI GODSE J
RESERVED ON: 8th MAY 2024
PRONOUNCED ON: 6th AUGUST 2024

JUDGMENT:

BASIC FACTS:

1. This petition challenges the dismissal of the appeal arising from the Judgment and Award passed by the Cooperative Appellate Court

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in a dispute filed by the petitioner. The petitioner had filed a dispute under Section 91 of The Maharashtra Co-operative Societies Act, 1960 ("MCS Act") to challenge the petitioner's termination. The petitioner had prayed for reinstatement and compensation in lieu of illegal termination. The dispute was dismissed. Hence, the petitioner had filed an appeal before the Co-operative Appellate Court. The appeal was also dismissed. Hence, the present petition.

2. This Court issued notice to the respondent; however, after service of notice when the petition came up for hearing, learned counsel for the petitioner, in all fairness, pointed out that the present dispute would be covered by the legal principles laid down by the Hon'ble Supreme Court in the case of ***Maharashtra State Co-operative Housing Finance Corporation Limited Vs Prabhakar Sitaram Bhadange***[1]**.** He submitted that the Apex Court dealt with the issue regarding the jurisdiction of the Co-operative Court under Section 91 of the MCS Act for deciding service disputes between the Co-operative Society established under the MCS Act and its employees. The Apex Court held that such a dispute between the Co-

[1] (2017) 5 SCC 623

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operative Society and its employees is not covered under Section 91 of the MCS Act.

3. Learned counsel for the petitioner further pointed out that in the case of ***Suvarnayug Sahakari Bank Limited Vs Suresh Shivajirao Kale and Others***[2], this Court has followed the legal principles settled by the Hon'ble Supreme Court. In the said decision, this Court set aside the judgment and order passed by the Co-operative Court in a similar dispute between the Co-operative Society and its employees; however, granted liberty to the employee to file a civil suit challenging orders which were the subject matter of the dispute before the Cooperative Court.

4. Learned counsel for the petitioner thus submitted that, in view of the settled legal principles, since the Cooperative Court would not have the jurisdiction to decide the dispute involved in the present case, the petitioner's dispute should be returned under Order VII Rule 10 of the Civil Procedure Code 1908 ("CPC") for filing before the Civil Court.

5. Learned counsel for the respondent society submitted that the present petition is covered by the decision of the Hon'ble Supreme

[2] Writ Petition No. 12845 of 2016 dated 6th October 2023

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Court in the case of ***Maharashtra State Co-operative Housing Finance Corporation Limited,*** followed by this Court in the case of ***Suvarnayug Sahakari Bank Limited.*** He submitted that the provisions of Order VII Rule 10 would not apply to the Co-operative Court; hence, under Article 227 of the Constitution of India, this Court cannot pass an order of returning the dispute by exercising powers under Order VII Rule 10 of CPC. He, therefore, submitted that the petition be dismissed with liberty to the petitioner to adopt appropriate proceedings as permissible in law.

6. In view of the respective contentions of the parties, I heard the parties on the point as to whether this Court can exercise the powers under Order VII Rule 10 of CPC and return the dispute filed by the petitioner in the Cooperative Court under Section 91 of the MCS Act for presenting it before the Civil Court.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

7. In support of the submissions on the point above, learned counsel for the petitioner submitted that in view of the legal principles settled by this Court in the Case of ***A-1 Co-operative Housing***

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Society Limited vs. R. Jaikisan and others[3],the provisions under Order VII Rule 10 and 10A of CPC would apply to the disputes filed under Section 91 of the MCS Act.

8. Learned counsel for the petitioner, by relying upon the decision in the case of ***A-1 Co-operative Housing Society Limited***, submitted that except for the inherent powers and the power to review, the remaining procedural powers under CPC apply to the Cooperative Court. He submitted that the relevant procedural provision under CPC would apply if a specific procedural rule is unavailable under the MCS Act and/or MCS Rules. He, thus, submitted that under the MCS Act, with MCS Rules framed thereunder, there is no provision available for returning the dispute and presenting it before the appropriate Court. Hence, the Cooperative Court can take recourse to Order VII Rule 10 and 10A of the CPC for returning the dispute for want of jurisdiction with permission to present it before the Court having jurisdiction.

9. Learned counsel for the petitioner also relied upon the decision of this Court in the case of ***Chandra Prem Shah and others Vs K. Raheja Universal Private Limited***[4]. He submitted that this Court has

[3] (2005) 1 Mah LJ 118
[4] 2015 SCC OnLine Bom 2484

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taken a view that a suit filed before the Civil Court could be returned to the Co-operative Court. Hence, by applying the same principles, even the Co-operative Court is empowered to return the dispute for filing it before the appropriate Court.

10. Learned counsel for the petitioner thus submitted that there is no bar to the applicability of Order VII Rule 10 of CPC to the Cooperative Court. The dispute filed by the petitioner is not maintainable in view of the legal principles laid down by the Hon'ble Supreme Court in the case of ***Maharashtra State Co-operative Housing Finance Corporation Limited,*** hence, according to him, it cannot be said that the Cooperative Court had no inherent jurisdiction. Therefore, the dispute can be returned for filing before the Civil Court.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

11. Learned counsel for the respondent submitted that the power of the Civil Court to direct the return of a plaint is limited to those cases where it has no territorial or pecuniary jurisdiction. However, in cases lacking inherent jurisdiction, the Court cannot return the plaint by applying the provisions of Order VII Rules 10 and 10A of CPC. He

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submitted that if such a liberty is granted, it will amount to the Cooperative Court exercising the powers of CPC when there is a lack of inherent jurisdiction.

12. Learned counsel for the respondent submitted that the petitioner lacks any diligence and willingness to argue the dispute on merits. He submitted that the petition has been pending before this Court for the last seven years, and hence, now it is untenable and unjustified on the part of the petitioner to pray for the return of the dispute by exercising powers under Order VII Rule 10 and 10A of CPC. He submitted that only the Court having jurisdiction over the subject matter of the dispute can exercise the power to return the dispute to the Court having jurisdiction. In view of the decision of the Hon'ble Supreme Court in the case of ***Maharashtra State Co-operative Housing Finance Corporation Limited,*** the Cooperative Court ceased to have jurisdiction on the subject matter; hence, in view of the settled principle of law, the power under Order VII Rules 10 and 10A cannot be exercised in the present case. Hence, when the Cooperative Court did not have the power to entertain the dispute, it could not have exercised the powers under Order VII Rule 10 of CPC for returning the dispute.

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Hence, this court may not derive powers to return the dispute by invoking powers under Article 227 of the Constitution of India.

13. In support of his submissions, learned counsel for the respondent relied upon this Court's decision in the case of ***Asif Ahmedally Porbunderwalla Vs Daulat Akbarali Porbunderwalla and Others***[5]. He submitted that this Court had taken the view that when the subject matter of the suit is beyond the jurisdiction of the trial court, the plaint has to be rejected and not returned under Order VII Rule 10 of CPC.

14. Learned counsel for the respondent submitted that this Court, in the case of ***Asif Ahmedally Porbunderwalla***, reaffirmed the view of the Division Bench of this Court in the case of ***Lt. Col. Anil Bhat and Others Vs CITI Bank, Mumbai***[6]***.*** He submitted that the Division Bench of this Court, in the case of ***Lt. Col Anil Bhat***, held that once the Debt Recovery Tribunal concluded that it had no jurisdiction over the subject matter before it, the Tribunal also had no authority to direct return of the plaint.

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5 2014 (2) Mh. L. J. 210

6 2009 SCC OnLine Bom 205

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15. Learned counsel for the respondent relied upon the decision of the Hon'ble Supreme Court in the case of ***Raizada Topandas and Another Vs Gorakhram Gokalchand***[7]. He submitted that the Full Bench of the High Court of Allahabad in ***Ananti Vs Channu***[8] explained the legal principle governing the question of jurisdiction at the inception of the suit. The High Court of Allahabad held that only if the issue of jurisdiction relates to territorial limits or pecuniary limits can the plaint be ordered to be returned for presentation to the proper Court. However, if it is found that, having regard to the nature of the suit, it is not cognizable by the class of the Court to which the Court belongs, the suit will have to be dismissed in its entirety. Learned counsel for the respondent thus submitted that the view taken by the Full Bench of Allahabad High Court in the case of ***Ananti*** is reaffirmed by the Hon'ble Supreme Court in the case of ***Raizada Topandas.***

16. Learned counsel for the respondent further relied upon the decision of this Court in the case of ***Tarkude Hotels Private Limited Vs Rupee Co-operative Bank***[9] and ***Murlidhar Datoba Nimanka and***

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7 (1964) 3 SCR 214
8 1929 (1) ALJ 940
9 2012 (1) Bom CR 442

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Others Vs Harish Balkrushna Latane and Others[10]*.* Learned counsel for the respondent submitted that this Court, in the aforesaid decisions, has taken the view that when the MCS Act does not provide for the applicability of specific provisions of CPC, then those provisions under the CPC would not apply to the Cooperative Court. Learned counsel for the respondent submitted that this Court, in the said decisions, has taken the view that only procedures provided under Section 94 of the MCS Act would apply to the Cooperative Court. He thus submitted that it is a well-settled principle of law that the applicability of the provisions of CPC by mere inference based on the absence of specific provisions in a special or local Act is not permissible.

17. With reference to the reliance placed by the learned counsel for the petitioner on the decision of this Court in the case of ***Chandra Prem Shah,*** the learned counsel for the respondent submitted that in the facts of the said case, the suit before the Civil Court was returned for presenting it before the Cooperative Court. However, in view of the legal principles, as settled in the aforesaid decisions, the provisions of

[10] 2003 (6)Bom CR 153

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Order VII Rule 10 and 10A cannot be made applicable to the subject matter of dispute, which is held to be not maintainable in view of the recent Supreme Court decision in the case of ***Maharashtra State Co-operative Housing Finance Corporation Limited.***

SUBMISSIONS IN REJOINDER ON BEHALF OF THE PETITIONER:

18. With reference to the reliance placed by the learned counsel for the respondent in the case of ***Lt. Col. Anil Bhat***, the learned counsel for the petitioner submitted that the Division Bench in the case of ***Anil Bhat*** relied upon the decision of the Hon'ble Supreme Court in the case of ***Raizada Topandas*** which deals with Section 28 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 ("Bombay Rent Act"). The issue in the case before the Hon'ble Supreme Court was not on interpreting Order VII Rule 10 of CPC. Hence, the view taken by the Division Bench of this Court in the case of ***Lt. Col. Anil Bhat*** by relying upon the Supreme Court decision in the case of ***Raizada Topandas*** is *per incuriam*. Hence, the learned counsel for the petitioner submitted that the reliance placed by the learned counsel for the respondent on the decision in the case of ***Lt. Col. Anil Bhat*** would be of no assistance to the arguments made on

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behalf of the respondent. Learned counsel for the petitioner further submitted that this Court, in ***Chandra Prem Shah***, referred to the decision in the cases of ***Lt. Col. Anil Bhat*** and ***Raizada Topandas***; however, this Court's view differs from the Division Bench's view in the case of ***Lt. Col. Anil Bhat***.

19. Learned counsel for the petitioner, therefore, submitted that the principles laid down by this Court in the case of ***Chandra Prem Shah*** returning the suit filed before the Civil Court for presenting it before the Cooperative Court would squarely apply to the facts of the present case. He, thus, submitted that by applying the same principles, the dispute of the petitioner before the Cooperative Court be returned for filing before the Civil Court having jurisdiction.

ANALYSIS:

20. I have considered the rival submissions of both parties. The petitioner filed a dispute under Section 91 of the MCS Act to challenge the decision of the respondent bank to terminate the petitioner's services. The petitioner also prayed for compensation for illegal termination and directions for payment of the other service benefits,

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including increment. The issue of jurisdiction was raised by the respondent in the said dispute. The Cooperative Court framed issues on merits as well as on the Cooperative Court's jurisdiction to try and entertain the dispute under Section 91 of the MCS Act. The Cooperative Court, on the point of jurisdiction, held that the Court had jurisdiction to try and entertain the dispute. Thus, the dispute between the parties on merits was examined, and the petitioner's dispute was dismissed on merits.

21. Being aggrieved by the dismissal of the dispute on merits, the petitioner preferred an appeal under Section 97 of the MCS Act before the Cooperative Appellate Court. The Cooperative Appellate Court heard and decided the appeal on merits and dismissed the same, confirming the dismissal of the dispute by the Cooperative Court. Thus, though the issue of jurisdiction was raised, the petitioner's dispute was decided on merits.

22. The petitioner was appointed as a clerk in the respondent bank and thereafter promoted as Manager. While he was working as a Branch Manager, he was transferred to another branch. Thereafter, the petitioner was suspended, and while under suspension, the

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petitioner's services were terminated. Admittedly, the petitioner was working on a managerial cadre when the cause of action arose for filing the dispute. Hence, the Cooperative Court and the Cooperative Appellate Court held that the petitioner was not covered under the definition of workmen as defined under Section 2(k) of the Industrial Disputes Act, 1947. Hence, the Courts held that the dispute was covered within the parameters of Section 91 of the MCS Act. Thus, the issue of jurisdiction of the Cooperative Court was based on the subject matter of challenge in the dispute and not on the lack of inherent jurisdiction.

23. The point of determination in the case of ***Maharashtra State Cooperative Housing Finance Corporation Limited*** was formulated by the Hon'ble Supreme Court in paragraph 3 as under:

> *"3. From the aforesaid, it becomes clear that the issue that needs to be decided is as to whether the Cooperative Court established under the Act has the requisite jurisdiction to decide "service dispute" between a cooperative society established under the Act and its employees".*

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24. In the facts of the case before the Hon'ble Supreme Court, the Cooperative Court dismissed the objection raised by the employer bank on the point of jurisdiction by holding that it had the requisite jurisdiction to decide the dispute. The bank challenged the Cooperative Court order before the Appellate Court. However, the Appellate Court dismissed the appeal by confirming the view taken by the Cooperative Court. Hence, the employer bank had challenged the same before the High Court at Aurangabad Bench. The High Court also confirmed the view taken by the Cooperative Court. Therefore, the Hon'ble Supreme Court examined the issue regarding the jurisdiction of the Cooperative Court in deciding the service dispute between the Cooperative Society and its employees. The Hon'ble Supreme Court concluded its decision in paragraph 20, which reads thus:

> *"20. It may be noted that the High Court, in the impugned judgment, has itself proceeded on the basis that if the dispute relates to reinstatement, the Cooperative Court will not have any jurisdiction. The main reason for conferring jurisdiction upon the Cooperative Court in the instant case is that the Cooperative Court has replaced the civil court and,*

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therefore, powers of the civil court are given to the Cooperative Court. However, the High Court erred in not further analysing the provisions of Section 91 of the Act which spells out the specific powers that are given to the Cooperative Court and those powers are of limited nature. Our aforesaid analysis leads to the conclusion that the disputes between the cooperative society and its employees are not covered by the said provision. We may hasten to add that if the provision is couched in a language to include such disputes (and we find such provisions in the Cooperative Societies Acts of certain States) and it is found that the Cooperative Society Act provides for complete machinery of redressal of grievances of the employees, then even the jurisdiction of the Labour Court / Industrial Tribunal under the Industrial Disputes Act shall be barred having regard to the provisions of such a special statute vis-a-vis general statute like the Industrial Disputes Act (see Ghaziabad Zila Sahkari Bank Ltd.)"

25. As a result, the Hon'ble Supreme Court set aside the order of the High Court, and the Judgment of the Division Bench in the case of ***Pralhad Vitharao Pawar Vs Kannaded Sahakari Sakhar Karkhana Limited***[11] was overruled. Thus, the Hon'ble Supreme Court held that

[11] (1998) 3 MHLJ 214

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the dispute filed by the employee before the Cooperative Court was not maintainable. However, the Hon'ble Supreme Court held that it would be open to the employee to file a civil suit, and he would be at liberty to file an appropriate application under Section 14 of The Limitation Act, 1963, to save the limitation.

26. Thus, in view of the legal principles laid down by the Hon'ble Supreme Court, the dispute between an employee and a Cooperative Society under Section 91 of the MCS Act would not be maintainable. Thus, it is argued by the learned counsel for the petitioner that in view of the subject matter of the dispute, the Cooperative Court is held to have no jurisdiction to decide a dispute between an employee and a Cooperative Society. He further argued that there is no inherent lack of jurisdiction of the Cooperative Court to decide such a dispute.

27. Hence, in this background, the questions that arise in the present petition are whether the provisions of Order VII Rules 10 and 10A of CPC can be made applicable to the present case and, if it is applicable, whether the dispute filed under Section 91 of the MCS Act can be returned for filing in the civil court.

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28. The Hon'ble Supreme Court, in the case of ***Raizada Topandas***, was dealing with the interpretation of Section 28 of the Bombay Rent Act. Thus, the question arose in the said case as to whether the jurisdiction of the City Civil Court is ousted when the defendant pleads or a question of the relationship of landlord and tenant arises, even though the plaintiff pleads that there is no such relationship. In answering said question, the Hon'ble Supreme Court referred to the general principle which governs the question of jurisdiction at the inception of suits. The decision of the Full Bench of Allahabad High Court in the case of ***Ananti*** was referred to and accepted as the correct legal principle. The observations from the full bench judgment are reproduced in the decision of ***Raizada Topandas,*** which says that :

> *".....If the jurisdiction is only one relating to territorial limits or pecuniary limits, the plaint will be ordered to be returned for presentation to the proper court. If, on the other hand, it is found that, having regard to the nature of the suit, it is not cognizable by the class of court to which the court belongs, the plaintiff's suit will have to be dismissed in its entirety".*

29. Thus, having regard to the aforementioned settled general

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principle of law, the Hon'ble Supreme Court, in the decision of ***Raizada Topandas***, accepted the view of the High Court that the jurisdiction at the inception of the suit depends on the averments in the plaint and not the defence. By relying upon the decision in the case of ***Raizada Topandas***, the Division Bench of this Court in the case of ***Lt. Col. Anil Bhat,*** held that the Tribunal, under the Debt Recovery Act, could not have directed the return of the plaint if it found that it had no jurisdiction over the subject matter. Thus, having regard to the general legal principles settled by the Hon'ble Supreme Court in the decision of ***Raizada Topandas*** and followed by the Division Bench of this Court in the decision of ***Lt. Col. Anil Bhat***, it is clear that only when the issue of jurisdiction relates to territorial limits or pecuniary limits, the plaint can be ordered to be returned for presentation to the proper court, however, having regard to the nature of the suit, if it is found that it is not triable by the court to which it is presented, the suit will have to be dismissed in its entirety. Thus, the decision of the Hon'ble Division Bench of this Court in the case of ***Lt. Col. Anil Bhat***, rendered by relying upon the decision of the Hon'ble Supreme Court in the case of ***Raizada Topandas***, shall prevail and is binding upon this Court.

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Hence, the decision of the learned Single Judge in the case of *Chandra Prem Shah* is not a binding precedent.

30. Thus, when there is an inherent lack of jurisdiction, the Court will get no jurisdiction to return the plaint. When there is a lack of pecuniary or territorial jurisdiction, it cannot be said that there is a lack of inherent jurisdiction. Hence, the plaint can be returned for presenting it to the competent court having jurisdiction. When the suit appears from the statement in the plaint to be barred by any law, it has to be rejected under clause (d) of Rule 11 of Order VII of CPC. When the issue is framed on jurisdiction, and the Court finds that the suit is not maintainable and there is an inherent lack of jurisdiction, the suit has to be dismissed. Therefore, there is no question of exercising powers under Order VII Rule 10 and 10A of CPC to return the plaint when the suit is barred by any law, and there is a lack of inherent jurisdiction.

31. Thus, I do not find any substance in the arguments made by the learned counsel for the petitioner that the decision in the case of *Raizada Topandas* does not deal with the issue of return of plaint under Order VII Rule 10 of CPC and, therefore, the view taken by this

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Court in the case of ***Lt. Col. Anil Bhat***, by relying upon the decision in the case of ***Raizada Topandas***, is *per incuriam*.

32. In the case of ***Tarkude Hotels***, this Court referred to the decision of this Court in the case of ***Murlidhar Nimanka*** and held that Section 10 of CPC has no applicability to the proceedings before the Cooperative Court. The legal principles settled by this Court in paragraph 19 of the decision of ***Tarkude Hotels*** on the applicability of CPC to the proceedings before the Cooperative Court can be summarized as follows:

(i) Sections 91, 92, 93, 94, and 95 of the MCS Act make the position clear that all powers of the Civil Court are not conferred on the Cooperative Court.

(ii) The procedure for settlement of disputes and powers of the Cooperative Court is set out in Section 94, and limited powers that are conferred on the Civil Court by CPC have been conferred on the Cooperative Court.

(iii) It is well settled that CPC is partly procedural and partly substantive. The Cooperative Court does not become a Civil Court by virtue of Sections 94 and 95 of the MCS Act.

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(iv) At separate stages, the MCS Act has provided for the applicability of CPC, albeit to a limited extent. If that is the intent and purpose, and if these provisions are read with the MCS Rules, then it is absolutely clear that the provisions enabling the Cooperative Court to inherently exercise its powers to do justice have been engrafted and included.

(v) The proceedings may be civil in nature, but that does not mean that the Court trying them is a Civil Court and that the proceedings are a “suit” within the meaning of CPC.

33. There is no provision under the MCS Act, or the Rules framed thereunder empowering the Cooperative Court to return the dispute for presentation to the Court having jurisdiction. Having regard to the legal principles settled by this Court in the decision of ***Tarkude Hotels***, I do not find any substance in the arguments made by the learned counsel for the petitioner that, since there is no bar to the applicability of Order VII Rule 10 of CPC to the proceedings before the Cooperative Court, this Court in the exercise of powers conferred under Article 227 of the Constitution of India, can order return of the dispute for presenting before the Civil Court.

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34. Thus, having regard to the legal principles settled by the Hon'ble Supreme Court in the decision of ***Raizada Topandas*** and this Court in the case of ***Tarkude Hotels*** and the case of ***Lt. Col. Anil Bhat***, I find no substance in the arguments raised by the learned counsel for the petitioner. The reliance placed by the learned counsel for the petitioner on the decision of this Court in the case of ***A-1 Cooperative Housing Society*** is of no assistance to the arguments canvassed by him. In the case of ***A-1 Cooperative Housing Society,*** this Court was dealing with the powers of the Cooperative Court to permit the amendment of pleadings and not with the issue of the Cooperative Court returning the dispute for presenting to the Civil Court of competent jurisdiction.

35. In the present case, it is not in dispute that in view of the settled legal principle by the Hon'ble Supreme Court in the decision of ***Maharashtra State Co-operative Housing Finance Corporation Limited***, the dispute filed by the petitioner before the Cooperative Court is not maintainable. Thus, considering the nature of the petitioner's dispute the Cooperative Court has no jurisdiction to decide the dispute. The Hon'ble Supreme Court held that the dispute filed by the employee before the Cooperative Court was not maintainable;

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however, the Hon'ble Supreme Court held that it would be open to the employee to file a civil suit, and he would be at liberty to file an appropriate application under Section 14 of The Limitation Act, 1963, to save the limitation. By following the principles settled by the Hon'ble Supreme Court, this Court, in the case of ***Suvarnayug Sahakari Bank,*** set aside the judgment and order passed by the Cooperative Court in a similar dispute between the Cooperative Society and its employees; however, granted liberty to the employee to file a civil suit challenging orders which were the subject matter of the dispute before the Cooperative Court.

36. The facts of the present case are squarely covered by the decision of the Hon'ble Supreme Court in the case of ***Maharashtra State Co-operative Housing Finance Corporation Limited*** and followed by this Court in the case of ***Suvarnayug Sahakari Bank***. I see no reason to take a different view as argued by the learned counsel for the petitioner and order return of the dispute instead of dismissing it with a liberty to file a civil suit challenging the orders which were the subject matter of the dispute before the Cooperative Court.

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37. Hence, for the reasons stated above, the following order is passed:

(i) It is held that Cooperative Case No. 105 of 2009, filed by the petitioner in the Cooperative Court, is not maintainable.

(ii) The Judgment and Order dated 3rd September 2015 passed by the Cooperative Court No. 2, at Sangli in Cooperative Case No. 105 of 2009, and the Judgment and Order dated 20th July 2016 passed by the Cooperative Appellate Court, Mumbai in Appeal No. 176 of 2015 are quashed and set aside, and Cooperative Case No. 105 of 2009 is dismissed.

(iii) The petitioner shall be at liberty to file a civil suit for the reliefs claimed in Cooperative Case No. 105 of 2009. If such a suit is filed within six weeks from today, the petitioner shall be entitled to seek benefit under Section 14 of the Limitation Act for exclusion of the period from the date of filing Cooperative Case No. 105 of 2009 till today.

38. The petition is disposed of in the above terms.

RAJESHWARI RAMESH PILLAI
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[GAURI GODSE, J.]

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