

ITEM NO.44

COURT NO.3

SECTION IX

**S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S**

Petition(s) for Special Leave to Appeal (Civil) No(s).101/2008

**(From the judgment and order dated 25/07/2007 in WP No. 3981/2003
of The HIGH COURT OF BOMBAY AT AURANGABAD)**

ADARSH GINNING AND PRESSING FACTORY**Petitioner(s)****VERSUS****STATE OF MAHARASHTRA & ORS.****Respondent(s)****(With prayer for interim relief and office report)****WITH**

SLP(C) NO. 2631 of 2008 – With appln. for permission to file addl. documents and with office report

Date: 06/04/2009 These Petitions were called on for hearing today.

CORAM :**HON'BLE MR. JUSTICE S.H. KAPADIA****HON'BLE MR. JUSTICE AFTAB ALAM**

For Petitioner(s) Mr. Shekhar Naphade, Sr.Adv.

Mr. Vinay Navare, Adv.**Ms. Abha R. Sharma, Adv.****Mr. Sunil Kumar Verma, Adv.**

For Respondent(s) Mr. Sudhanshu S. Choudhari, Adv.

Mr. Naresh Kumar, Adv.**Mrs. Arundhati, Adv.****Ms. Asha G. Nair, Adv.****Mr. Rajesh Prasad Singh, Adv.**

UPON hearing counsel the Court made the following

O R D E R**Leave granted.****The appeals are disposed of with no order as to costs.**

(S. Thapar)
PS to Registrar

(Madhu Saxena)
Court Master

The signed order is placed on the file.



IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2204 OF 2009
(Arising out of SLP(C) No.101 of 2008)

ADARSH GINNING AND PRESSING FACTORY

...APPELLANT (S)

VERSUS

STATE OF MAHARASHTRA & OTHERS

...RESPONDENT(S)

WITH CIVIL APPEAL NO. 2205 OF 2009 @ SLP(C)NO. 2631 OF 2008

ORDER

Leave granted.

In this case the question which arose before the High Court concerned the validity of the Circulars dated 8th January, 2001 and 3rd October, 2002, issued by the Registrar of the Co-operative Societies stating that Section 101 of the Maharashtra Co-operative Societies Act, 1960 would continue to apply even after commencement of Multi-State Co-operative Societies Act, 2002. The said question has not been answered by the High Court.

At this stage it may be mentioned that the Multi-State Co-operative Act, 1984, when initially enacted, was stayed in some conjoint cases. However, that was not the position in the facts of the present case.

In the present case a neat question of law arose for decision before the High Court, namely, whether the State Authority could have invoked Maharashtra Co-operative Societies Act, 1960 with respect to the Co-operative Society registered under Multi-State Co-operative Societies Act, 1984 (later replaced by 2002 Act). This question remains unanswered and hence we remit this case to the High Court to consider the same. We may

add that auction sale has been set aside and refund has been made.

However, it is stated on behalf of the Peoples Cooperative Bank Limited (Respondent No. 4 herein) that the outstanding as of date allegedly is Rs.1.86 crores. The quantification is being disputed by the appellant herein. Therefore, we are directing respondent No. 4 herein to initiate proceedings under Multi-State Co-operative Societies Act, 2002 within a period of four weeks from today. Respondent No. 4 is further directed to seek interim reliefs under the 2002 Act within two weeks from the date of institution of proceedings. If proceedings are so instituted, we are directing the Competent Authority under the 2002 Act to expeditiously hear and dispose of such Application within a period of three months from the date of the institution of proceedings. The attachment levied on the assets of the appellant under Section 101 read with Section 156 of Multi-State Cooperative Societies Act, 1960 will however continue till such time as the Competent Authority under 2002 Act passes Interim Orders which when passed will supersede orders of attachment under Maharashtra Co-operative Societies Act, 1960.

Before concluding, it may be clarified that if the High Court finds that respondent No. 4 herein has obtained substantial reliefs under the 2002 Act as directed above then it may consider disposing of the pending Writ Petition No. 3981 of 2003 in the light of the orders passed by the Authority under 2002 Act without going into the larger question of law framed hereinabove.

Subject to what is stated above, these civil appeals stand disposed of with no order as to costs.

.....J.
[S.H. KAPADIA]

New Delhi,
April 06, 2009

.....J
[AFTAB ALAM]

