IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4136 OF 2026

UDAY SHIVAJI JAGTAP
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Date: 2026.11.20 14:28:43 +0530

1. Shri. Rajendra Sureshrao Ghogare … Petitioners
   A/p. Mhalung, Tal. Malshiras, Dist. Solapur

2. Vinit Suryakant Borawake
   A/p. Mhalung, Tal. Malshiras, Dist. Solapur

Vs.

1. Vidyanand Co-Operative Bank Ltd. Solapur

2. District Deputy Registrar, Co-op. Society, Solapur

3. Divisional Joint Registrar,
   Co-op. Society, Pune

4. M/s. Shriram Construction
   A/p. Sayunkta Nagar, Yashwantnagar,
   Tal. Malshiras, Dist. Solapur … Respondents

ALONG WITH
WRIT PETITION NO. 4137 OF 2026

Shri. Rajendra Sureshrao Ghogare … Petitioner

Vs.

1. Vidyanand Co-Operative Bank Ltd. Solapur

2. Deputy Registrar, Solapur Zilla Nagari
   Sahakari Bank Association Ltd. Solapur

3. Divisional Joint Registrar,
   Co-op. SO Pune Division, Pune

4. M/s. R.M. Chavan, Proprietor,
   Shri. Ramchandra Mahadev Chavan
   A/p. Yashwantnagar, Tal. Malshiras,
   Dist. Solapur – 413 107

5. Shri Sanjay Mahadev Chavan,

A/p. Yashwantnagar, Tal. Malshiras, … Respondents
Dist. Solapur – 413 107

ALONG WITH
WRIT PETITION NO. 4165 OF 2026

1. Atul Prabhakar Pawar … Petitioners
   A/p. Methwade, Tal. Sangola, Dist. Solapur

2. Pandurang Haridas Rede Patil
   A/p. Mhalung, Tal. Malshiras, Dist. Solapur

Vs.

1. Vidyanand Co-Operative Bank Ltd. Solapur

2. Deputy Registrar Co-operative Society, Solapur

3. Divisional Joint Registrar,
   Co-op. Society, Pune

4. Sanjay Mahadev Chavan, Proprietor of
   M/s. Sanjay Mahadev Chavan
   A/p. Sayunkta Nagar, Yashwantnagar,
   Tal. Malshiras, Dist. Solapur … Respondents

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Mr. Mandar V. Pandit for the Petitioners
Mr. Drupad S. Patil a/w Mr. Rajvardhan S. Chougule, Dheeraj D. Patil i/b Rugved Kinkar for Respondent No.1.
Mr. J.P. Patil, AGP for Respondent – State

.....

CORAM : SHAILESH P. BRAHME, J.

RESERVED ON : 23rd OCTOBER, 2026.
PRONOUNCED ON 20th NOVEMBER, 2026.

JUDGMENT **:-**

. Rule. Rule is made returnable forthwith with the consent of the parties. Heard both sides finally.

2. Petitioners are borrowers, who are challenging judgment and order dated 13.05.2026, passed by Divisional Joint Registrar under Section 154 of the Maharashtra cooperative Societies Act, 1960 (hereinafter referred to as 'Act of 1960), setting aside the orders of Assistant Registrars and remanding the matters for consideration afresh on its own merits. The counsel appearing for the parties have addressed this Court mainly on the legal issues. There is no dispute over the material facts, hence these petitions are decided by common judgment.

3. The submissions of learned counsel Mr. Mandar Pandit are summarized as follows:

(i) The impugned orders of remand are without jurisdiction due to bar ingrafted in Section 18 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (hereinafter referred to as 'RDB Act')/

(ii) The Recovery Tribunal has only jurisdiction to deal with the matters of recovery. The applications filed under Section 101 of the Act of 1960 by the respondent Cooperative Bank before the Assistant Registrar are untenable.

(iii) Reliance is placed on the judgment of **Pandurang Ganpati Chaugule Vs. Vishwasrao Patil Murgud Sahakari Bank Ltd.; (2020) 9 Supreme Court Cases 215,** rendered by five judges of the Supreme Court, doubting

and disapproving the view taken by earlier three judges bench judgment of Supreme Court in **Greater Bombay Coop. Bank Ltd. Vs. United Yarn Tex (P) Ltd. And others; (2007) 6 Supreme Court Cases 236.**

(iv) It is submitted that only parliament in view of entry No. 45 of List I of Schedule VII of Article 246 has jurisdiction to enact after appropriate legislation in respect of recovery of dues to the Cooperative Bank. In view of entry No. 32 of List No.II of Schedule VII, State has no power to legislate for the recoveries of the dues of the Cooperative Bank.

(v) It is submitted that the orders passed by the Assistant Registrar and Joint Registrar are *void ab initio*.

(vi) Reliance is also made to judgment of coordinate bench in **Amritial P. Shah Vs. TJSB Sahakari Bank Limited and others; 2025 SCC OnLine Bom 5395** to point out that issue has been referred to larger bench.

(vii) It is submitted that view taken by another coordinate bench in respect of **Supreme Agro Trade and others Vs. State of Maharashtra and others in Writ Petition No. 2188/2022** with connected matters is not in consonance with pronouncement of Supreme Court in case of **Pandurang Chaugule (supra)**.

4. Per contra, learned counsel Mr. Drupad Patil, appearing for respondent No.1 has canvassed the submissions that law laid down by

the Apex court in **Pandurang Chaugule** (supra) can not be applied, as the issues germane therein are totally different. It is not the ratio that the jurisdiction of the cooperative authority has been excluded or barred by RDB Act. The Apex Court in **Pandurang Chaugule (supra)** is dealing with provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "SARFAESI Act"). It is emphasized that the remedy provided under Section 101 is unaffected by Section 18 of the RDB Act or Section 34 of SARFAESI Act. Reliance is placed on the judgment of Supreme Agro Trade (supra) and **A. Navinchandra Steel Private Limited Vs. Board of Directors of the Abhyudaya Co-Op. Bank Limited, and others in Commercial Arbitration Petition No. 742/2025** and connected matters.

5. I have considered the rival submissions of the litigating sides. The respondent no. 1 is registered under Act of 1960. It is not a multi state cooperative society. The loan advanced by it to the borrower, for which the petitioners stood as guarantors was more than Rs. 10 lakh. The recovery initiated by the respondent no. 1 is outstanding of more than 1 Crore against the borrowers and the guarantors.

6. Section 18 of the RDB Act bars the jurisdiction of every court or any authority in relation to matter covers by Section 17 once the Tribunal

has been constituted. The exclusive jurisdiction is provided to Recovery Tribunal for the Banks to recover the debts due to it as per Section 17 of the RDB Act. The definition of Section 2(1)(d) of the RDB Act and Section 5(c) of Banking Regulation Act are also relevant. My attention is also adverted to Entry No. 32 of List II and Entry No. 45 of List I as provided by Article 246 of the Constitution of India.

7. Petitioners relied upon the judgment of **Narendra Kantilal Shah Vs. Joint Registrar Co-Operative Societies and others; (2004) 1 Mah LJ 704** which was rendered by full bench of the Bombay high Court and the question which had fallen for consideration was as follows.

> *"Do the courts and authorities constituted under the Maharashtra Co-operative Societies Act, 1960 (the 1960 Act), and the Multi-State Co-operative Societies Act, 2002 (the 2002 Act), continue to have jurisdiction to entertain applications/disputes submitted before them by the co-operative banks incorporated under the 1960 Act and the 2002 Act for an order for recovery of debts due to them, after establishment of a Tribunal under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (the 1993 Act)."*

Following is the conclusion of the Bench :

> *"For all these reasons, therefore, we hold that on and from the date on which the Debts Recovery Tribunal was constituted under the 1993 Act, the courts and authorities under the 1960 Act as also the 2002 Act would cease to have jurisdiction to entertain the*

applications submitted by co-operative banks for recovery of their dues.

Registry to place all the writ petitions, that have been placed before us, before the appropriate benches for disposal in accordance with law and in the light of this judgment."

8. The aforesaid decision was challenged before the Supreme Court along with other matters in **Greater Bombay Coop. Bank Ltd. (supra**). Following are the conclusions recorded by the Apex Court.

97. For the reasons stated above and adopting pervasive and meaningful interpretation of the provisions of the relevant statutes and Entries 43, 44 and 45 of List I and Entry 32 of List II of the Seventh Schedule of the Constitution, we answer the reference as under:

"Cooperative banks" established under the Maharashtra Cooperative Societies Act, 1960 (the MCS Act, 1960), the Andhra Pradesh Cooperative Societies Act, 1964 (the APCS Act, 1964), and the Multi- State Cooperative Societies Act, 2002 (the MSCS Act, 2002) transacting the business of banking, do not fall within the meaning of "banking company" as defined in Section 5(c) of the Banking Regulation Act, 1949 (the BR Act). Therefore, the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (the RDB Act) by invoking the doctrine of incorporation are not applicable to the recovery of dues by the cooperatives from their members.

98. The field of cooperative societies cannot be said to have been covered by the Central Legislation by reference to

> *Entry 45, List I of the Seventh Schedule of the Constitution. Cooperative banks constituted under the Cooperative Societies Acts enacted by the respective States would be covered by cooperative societies under Entry 32 of List II of the Seventh Schedule of the Constitution of India."*

9. Thereafter the decision rendered by three judges bench in **Greater Bombay (supra)** was dealt with by the Constitutional Bench judgment of the Apex Court in the matter of **Pandurang Chaugule (supra)**. The questions fallen for consideration are enumerated in paragraph no. 20 and those are answered in paragraph no. 142 of the judgment. My attention is adverted by learned counsel Mr. Mandar to paragraph no. 102 and 120 of the Judgment to buttress that the judgment in **Greater Bombay (supra)** is disapproved by Constitutional Bench.

10. The constitutional bench judgment in **Pandurang Chaugule (supra)** has been dealt with by coordinate benches in case of **Supreme Agro Trade (supra)** and in case of **Amritlal P. Shah (supra)**. It would be appropriate to reproduce the answers given by constitutional bench to the questions dealt with it as follows;

> *"142. Resultantly, we answer the reference as under:*
> *142.1. (1)(a) The cooperative banks registered under the State legislation and multi-State level cooperative societies registered under the MSCS Act, 2002 with respect to "banking" are governed by the legislation relatable to Schedule VII List I Entry 45 of the*

Constitution of India.

142.1. (b) The cooperative banks run by the cooperative societies registered under the State legislation with respect to the aspects of "incorporation, regulation and winding up", in particular, with respect to the matters which are outside the purview of Schedule VII List I Entry 45 of the Constitution of India, are governed by the said legislation relatable to Schedule VII List II Entry 32 of the Constitution of India.

142.2. (2) The cooperative banks involved in the activities related to banking are covered within the meaning of banking company" defined under Section 5(c) read with Section 56(a) of the Banking Regulation Act, 1949, which is a legislation relatable to List I Entry 45. It governs the aspect of "banking" of cooperative banks run by the cooperative societies. The cooperative banks cannot carry on any activity without compliance of the provisions of the Banking Regulation Act, 1949 and any other legislation applicable to such banks relatable to "banking" in List I Entry 45 and the RBI Act relatable to Schedule VII List I Entry 38 of the Constitution of India.

142.3. (3)(a) The cooperative banks under the State legislation and multi- State cooperative banks are "banks" under Section 2(1)(c) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The recovery is an essential part of banking; as such, the recovery procedure prescribed under Section 13 of the SARFAESI Act, a legislation relatable to Schedule VII List I Entry 45 to the Constitution of India, is applicable.

142.4. (3)(b) Parliament has legislative competence under Schedule VII List I Entry 45 of the Constitution of

> *India to provide additional procedures for recovery under Section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 with respect to cooperative banks. The provisions of Section 2(1)(c)(iv-a), of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, adding "ex abundanti cautela", "a multi-State cooperative bank" is not ultra vires as well as the Notification dated 28-1-2003 issued with respect to the cooperative banks registered under the State legislation."*

11. The learned Single Judge (Corum: Mr. Anil S. Kilor J.) has dealt with the judgment of **Greater Bombay (supra)** as well as **Pandurang Chaughule (supra)**. The arguments which are advanced by learned counsel Mr. Mandar Pandit were also advanced by the petitioner in that matter. The petitioners therein were the borrowers of the respondent-Cooperative bank. The bank had filed application under Section 101 of the Act of 1960 and the recovery certificates were issued which were subjected to challenge before learned Single Judge in writ petition. Having considered the rival contentions of the parties, legal framework and the ratio laid down by **Pandurang Chaughule (supra)**, following observations are recorded :

> *"29. The above referred observations made it clear that, banking in pith and substance is covered under Entry 45 of List I, even incidental trenching upon the field reserved for State under Entry 32 List II is permissible. It is further*

evident that, the meaning of "banking company" necessarily be strictly confined to the words used in Section 5(c) of the BR Act.

30. The above referred observation also makes it clear that, it would have been the easiest thing for Parliament to say that "banking company" shall mean "banking company" as defined in Section 5(c) and shall include "cooperative bank" as defined in Section 5 (cci) and "primary cooperative bank" as defined in Section 5(ccv). However, Parliament did not do so. There was thus a conscious exclusion and deliberate omission of cooperative banks from the purview of the RDB Act. The reason for excluding cooperative banks seems to be that. cooperative banks have comprehensive, self contained and less expensive remedies available to them under the State Cooperative Societies Acts of the States concerned, while other banks and financial institutions did not have such speedy remedies and they had to file suits in civil courts."

12. This judgment helps the respondent-Bank, and I find substance in the submissions of Mr. Dhrupad Patil that the remedy provided under Section 101 is additional remedy notwithstanding the remedy of approaching the Recovery Tribunal.

13. Another coordinate bench (Corum Mr. Amit Borkar J.) in **Amritilal P. Shah's case (supra)** also had an occasion to deal with the issues. In that matter the respondent Bank had approached Cooperative Court for recovery against the petitioner. The Cooperative Court dismissed the claim, which was challenged before the Cooperative Appellate Court.

The Appellate Court reversed the judgment, which was challenged before the learned Single Judge and the writ petition was allowed. Against that a review was preferred. The coordinate bench elaborately dealt with various aspects of the matter and also dealt with judgment rendered by Apex Court in **Greater Bombay (supra)** as well as **Pandurang Chaugule (supra)**. It is necessary to refer to the following observations :

> *"74. The real issue, therefore, is how to fairly balance these two sides. On one side, Parliament's power under Entry 45 of the Union List is clear. Banking, including recovery of bank dues, clearly falls within this area, and Parliament has full authority to make laws on it. On the other side, the States continue to have their own constitutional power under Entry 32 of the State List to regulate co-operative societies. This power includes setting up forums and procedures to decide disputes within the co-operative system. What is important is that Parliament has not made any clear and specific provision in the RDB Act stating that State co-operative banks are included under it or that the jurisdiction of Co-operative Courts under Section 91 of the MCS Act is taken away. This absence of a clear statement in the law creates real uncertainty. The issue cannot be answered without doubt. The Court must therefore carefully consider the competing arguments on constitutional powers. It is this need to maintain a proper balance, rather than to reach a hurried conclusion, that requires authoritative adjudication by a larger bench.*
>
> *75. For the reasons stated above, this Court finds that it is not possible to give a final and conclusive answer on whether the decision delivered by the coordinate bench of this Court in Washim Urban Co- operative Bank Ltd. v.*

Girishchandra is correct. The issue involved goes much beyond the facts of the present case. It raises an important question of law concerning the interpretation of central and State laws, the respective scope of Entries 45 of List I and 32 of List II of the Seventh Schedule to the Constitution, and the effect of later constitutional developments. These issues are not merely academic. They have wide and practical consequences. They directly affect how quickly recovery disputes filed by cooperative banks can be decided. They also have a serious bearing on the finality of awards passed on merits by Co-operative Courts under State law. If the legal position remains unclear, it may lead to uncertainty, delay, and repeated challenges to recovery proceedings. For these reasons, the question requires careful judicial examination and a clear authoritative answer. This Court also finds that the arguments placed by both sides are serious and well founded. Each side has relied on substantial constitutional and legal principles. In such a situation, it would not be proper for this Court, sitting as a coordinate bench, to disagree with the view taken in Washim Urban without the authority of a larger Bench of this Court."

14. Ultimately learned Single Judge formulated a question of law and requested the Hon'ble the Chief Justice for appropriate orders and concluded in following manner :

"76. In exercise of the power contemplated under Chapter I Rule 8 of the Bombay High Court Appellate Side Rules, 1960, I am of the opinion that the matter can be more advantageously heard by a Bench of two or more Judges. Hence the following question of law is referred to the Hon'ble the Chief Justice for appropriate orders for placing the matter before a larger Bench:

> *"Whether, and to what extent, recovery proceedings initiated by State co-operative banks are governed by the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, and whether the jurisdiction of the Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act, 1960 stands excluded by reason of Sections 17, 18 and 34 of the said Central Act, particularly in the light of the decisions of the Supreme Court in Greater Bombay Co-operative Bank Ltd. v. United Yarn Tex Pvt. Ltd., (2007) 6 SCC 236: (2007) 137 Comp Cas 63 and Pandurang Ganpati Chaugule v. Vishwasrao Patil Murgud Sahakari Bank Ltd., (2020) 9 SCC 215."*
>
> *77. The Registry is directed to place the papers before the Hon'ble the Chief Justice for such further orders as may be considered necessary, including for constitution of a larger Bench to decide the above question."*

15. The sum and substance of above legal position is that the issue has been framed and is awaiting adjudication by the larger bench. In such a situation, I am guided by the principles laid down by the Apex Court in the matter of **Ashok Sadarangani and Anr. Vs. Union of India and Ors. (2012) 11 SCC 321**. Merely because the matter is pending adjudication before the larger bench, would not be impediment to deny the remedy to the respondent no. 1 - Cooperative Bank. In such a situation, till the authoritative pronouncement occupies the field, I propose to adopt and

uphold the remedy for the Cooperative Society provided under Section 101 of the Act of 1960. I propose to adopt the view taken by learned Single Judge in **Supreme Agro (supra**) that there is no complete bar to file Application under Section 101 of the Act of 1960. The submissions advanced by the learned counsel for the petitioners need not be gone into at this stage.

16. I am also being cited the judgment in case of **A. Navinchandra Steel Private Limited Vs. Board of Directors of the Abhyudaya Co-Op. Bank Ltd. And others in Commercial Arbitration Petition No. 472/2025.** The judgment would not be helpful for deciding the controversy in the present case. In that case the bank in question was Multi-State cooperative society, and therefore, the facts are distinguishable and it is not necessary to refer the ratio laid down therein.

17. For the foregoing reasons I find no merit in the writ petitions and they are dismissed.

18. Rule stands discharged. The proceedings before the Assistant Registrar are expedited.

(SHAILESH P. BRAHME, J.)