



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
 CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 5742 OF 2023.**

Daulat Shetkari Sahakari Sakhar Karkhana ]  
 Ltd., Halkarni, Taluka Chandgad, District - ]  
 Kolhapur, through its Managing Director ] **...Petitioner.**

**Versus**

- 1) The State of Maharashtra through the ]  
 Principal Secretary, Department of ]  
 Cooperation, Mantralaya, Mumbai – 400 ]  
 032. ]
2. Commissioner of Sugar and ]  
 Registrar, Co-operative Societies, ]  
 Maharashtra State, Pune. ]
- 3) Collector of Kolhapur having his office ]  
 at Kolhapur. ]
4. The Sahyadri Co-Operative Credit Society ]  
 Limited, Belgaum having its office at ]  
 C.T.S. No.3957 Kali Ambarai, College ]  
 Road, Belgaum, Karnataka through its ]  
 Authorised Officer. ]
5. M/s. Tasgaonkar Sugar Mills Ltd. ]  
 A Company registered under the ]  
 Companies Act, 1956, and having its ]  
 Registered Office at Sumati Niwas, 1<sup>st</sup> ]  
 Floor, Near Hotel Ameya, Shivsena ]  
 Bhavan Peth, Shivaji Park, Dadar, Mumbai ]  
 – 400 028 through its Authorised Officer. ] **...Respondents.**

**WITH**

**WRIT PETITION NO. 5874 of 2023.**

1. Mr. Eknath Subrao Patil, ]  
 Age: 40 years, Occu: Agriculturist at Post ]  
 Saroli, Taluka - Gadhinglaj District - ]  
 Kolhapur. ]
2. Mr. Sanjay Ananda Patil, ]  
 Age: 43 years, Occu: Agriculturist at Post ]

- Saroli, Taluka - Gadhinglaj District - ]  
Kolhapur. ]
3. Mr. Maruti Shankar Patil ]  
Age:49 Years, Occu: Agriculturist at Post ]  
Saroli, Taluka – Gadhinglaj, ]  
District -Kolhapur ]
4. Mr. Sonappa Tanappa Patil ]  
Age : 72 Years, Occu: Agriculturist at ]  
Post Saroli, Taluka – Gadhinglaj, ]  
District - Kolhapur. ]
5. Mr. Dashrath Remaji Patil ]  
Age : 49 Years, Occu: Agriculturist at ]  
Post Saroli, Taluka – Gadhinglaj, ]  
District - Kolhapur. ]
6. Mr. Rajaram Vithoba Tikka ]  
Age : 53 Years, Occu: Agriculturist at ]  
Post Sambare, Taluka – Gadhinglaj, ]  
District - Kolhapur. ]
7. Mr. Tanaji Dattu Mhatugade ]  
Age : 48 Years, Occu: Agriculturist at ]  
Post Tavrewadi, Taluka - Gadhinglaj ]  
District - Kolhapur. ]
8. Mr. Prakash Narayan Nandwadekar ]  
Age : 53 Years, Occu: Agriculturist at ]  
Savatwadi Post Kandewadi, Taluka - ]  
Gadhinglaj District - Kolhapur. ]
9. Mr. Dadu Santu Kurade ]  
Age : 76 Years, Occu: Agriculturist at ]  
Savatwadi, Post Kandewadi, Taluka - ]  
Gadhinglaj District - Kolhapur. ]
10. Mr. Shivaji Govind Nandwadekar ]  
Age: 66 Years, Occu: Agriculturist at ]  
Savatwadi, Post Kandewadi, Taluka - ]  
Gadhinglaj, District - Kolhapur. ]
11. Mr. Manohar Babu Shinde ]  
Age: 58 Years, Occu: Agriculturist at ]  
Post Kandewadi, Taluka - Gadhinglaj, ]  
District - Kolhapur. ]
12. Mr. Bajirao Ladoba Desai ]  
Age: 75 Years, Occu: Agriculturist at ]  
Post Kandewadi, Taluka – Gadhinglaj, ]

- District - Kolhapur. ]  
13. Mr. Madhukar Bhimrao Desai ]  
Age: 72 Years, Occu: Agriculturist at ]  
Post Kandewadi, Taluka - Gadhinglaj, ]  
District - Kolhapur. ]  
14. Mr. Pandurang Bhimrao Desai, Age: 77 ]  
Years, Occu: Agriculturist at Post ]  
Kandewadi, Taluka – Gadhinglaj, ]  
District – Kolhapur. ]  
15. Mr. Jayvant Bhagana Ghose ]  
Age: 47 Years, Occu: Agriculturist at ]  
Malgad, Post Mangaon, Taluka - ]  
Chandgad, ]  
District - Kolhapur ]  
16. Mr. Maruti Laxman Malvikar ]  
Age: 40 Years, Occu: Agriculturist at ]  
Nandavade, Taluka - Chandgad, District - ]  
Kolhapur ]  
17. Mr. Nagoji Shattu Shinde ]  
Age: 77 Years, Occu: Agriculturist at ]  
Nandavade, Taluka - Chandgad, District - ]  
Kolhapur ]  
18. Mr. Shivaji Nagoji Patil ]  
Age: 58 Years, Occu: Agriculturist at ]  
Nandavade, Taluka - Chandgad, District - ]  
Kolhapur ]  
19. Mr. Shankar Gavdu Patil ]  
Age: 64 Years, Occu: Agriculturist at ]  
Nandavade, Taluka - Chandgad, District ]  
- Kolhapur ]  
20. Mr. Manohar Shankar Sutar ]  
Age: 57 Years, Occu: Agriculturist at ]  
Nandavade, Taluka - Chandgad, District - ]  
Kolhapur ]  
21. Mr. Balram Jotiba Phadake ]  
Age: 68 Years, Occu: Agriculturist at ]  
Nandavade, Taluka - Chandgad, District ]  
– Kolhapur. ] **...Petitioners.**

**Versus**

1. State of Maharashtra ]  
Through the Secretary, Department of ]  
Cooperation, Mantralaya, Mumbai – 400 ]  
032. ]
2. District Magistrate Collector Nagala ]  
Park, Having office at Kolhapur ]
3. Commissioner of Sugar and Special ]  
Registrar, Cooperative Societies, ]  
Maharashtra State, Sakhar Sankul Shivaji ]  
Nagar, Pune – 411 005. ]
4. Regional Joint Director (Sugar) Kolhapur ]  
Region, Kolhapur ]
5. Navhind Cooperative Credit Society Ltd. ]  
Yellur (Multi-State) having office at ]  
Maruti Galli, Taluka and District – ]  
Belgaum, Karnataka ]
6. Sahyadri Cooperative Credit Society Ltd. ]  
Belgaum having its office at C.T.S. ]  
No.3957, Kali Ambarai, College Road, ]  
Belgaum, Karnataka ]
7. Daulat Shetkari Sahakari Sakhar ]  
Karkhana Ltd., Halkarni Taluka ]  
Chandgad, District - Kolhapur through ]  
its Managing Director ]
8. M/s. Tasgaonkar Sugar Mills Ltd. ]  
A Company registered under the ]  
Companies Act, 1956 and having its ]  
Registered Office at Sumati Niwas, 1<sup>st</sup> ]  
Floor, near Hotel Ameya, Shivsena ]  
Bhavan Peth, Shivaji Park, Dadar, ]  
Mumbai – 400 028. ] **...Respondents.**

**WITH**  
**WRIT PETITION NO. 5743 OF 2023**

Daulat Shetkari Sahakari Sakhar Karkhana ]  
Ltd., Halkarni, Taluka Chandgad, District - ]  
Kolhapur, through its Managing Director ] **...Petitioner.**

**Versus**

1. The State of Maharashtra through the ]  
Principal Secretary, Department of ]  
Cooperation, Mantralaya, Mumbai – 400 ]  
032. ]
2. Commissioner of Sugar and Registrar, ]  
Cooperative Societies, Maharashtra ]  
State, Pune ]
3. Collector of Kolhapur having his office ]  
at Kolhapur. ]
4. The Navhind Co-operative Credit ]  
Society Limited, Yellur (Multistate) ]  
having its Office at Maruti Galli, Yellur, ]  
Taluka and District Belgaum Karnataka ]  
and one of its Branch at Halkarni, ]  
Taluka Chandgad, District - Kolhapur, ]  
through its Authorised Officer ]
5. M/s. Tasgaonkar Sugar Mills Ltd. ]  
A Company registered under the ]  
Companies Act, 1956, and having its ]  
Registered Office at Sumati Niwas, 1<sup>st</sup> ]  
floor, Near Hotel Ameya, Shivsena ]  
Bhavan Peth, Shivaji Park, Dadar, ]  
Mumbai – 400 028 through its ]  
Authorised Officer ] **...Respondents.**

*Mr. A. A. Kumbhkoni, Senior Advocate i/b Mr. Chetan Patil for the  
Petitioner in WP Nos. 5742 of 2023 & 5743 of 2023.*

*Mr. Akshay Kapadia and Mr. Kishore Lawate for Respondent Nos. 5 & 6 in  
WP Nos. 5742 of 2023 & 5743 of 2023.*

*Mr. Drupad Patil and Mr. Dheeraj Patil for the Petitioner in WP No. 5874  
of 2023.*

*Mr. S. S. Patwardhan i/b Mr. Mrunal Shelar for Respondent Nos. 5 & 6 in*

*WP No. 5874 of 2023 and for Respondent No. 4 in WP Nos. 5742 of 2023 and 5743 of 2023.*

*Ms. Tanu N. Bhatia, AGP for Respondent-State.*

**Coram : Sharmila U. Deshmukh, J.**

**Reserved on : 11<sup>th</sup> November, 2024**

**Pronounced on : 13<sup>th</sup> January, 2025.**

**JUDGMENT :**

1. **Rule.** With Consent, rule made returnable forthwith in all Petitions and taken up for final hearing.

**THE CHALLENGE:**

2. Exception is taken to Collector's order dated 31<sup>st</sup> March, 2023 computing the amount payable to the Respondent No. 4-Sahyadri Co-operative Credit Society Ltd in Writ Petition No.5742 of 2023 and Respondent No. 4-Navhind Co-operative Credit Society Ltd. in Writ Petition No.5743 of 2023, by applying contractual rate of interest and directing payment of Rs.19,60,00,000/- and Rs.34,16,00,000/- respectively from the auction proceeds, which were deposited in this Court in the year 2011 and transferred to the office of Collector vide order dated 27<sup>th</sup> February, 2023.

**THE ISSUE:**

3. The issue arising for consideration is whether the deposit of auction proceeds in this Court amounts to payment in discharge of debt relieving the Petitioner from the liability of interest payment at

contractual rate from the date of deposit.

**PARTIES TO THE PROCEEDINGS:**

4. Writ Petition No.5742 of 2023 and Writ Petition No.5743 of 2023 have been filed by the Sugar Factory and Writ Petition No.5874 of 2023 is filed by the sugarcane growers raising common issues and claiming right in the balance of auction proceeds received from sale of pledged sugar. As common issues arise, with consent, the Petitions were taken up for hearing together. Common submissions were advanced and all the three petitions are being disposed of by this common judgment. For sake of convenience, the Credit Societies are referred to as "Sahyadari" and "Navhind" or collectively as "credit societies", the Petitioner in Writ Petition Nos. 5742 of 2023 and 5743 of 2023 are referred to as "Sugar Factory" and Petitioners in Writ Petition No. 5874 of 2023 are referred to as "Sugarcane Growers".

**FACTUAL MATRIX:**

5. In December 2010, a lease came to be executed by the Sugar Factory in favor of Respondent No. 5 for conducting the Petitioner's business of sugar factory. In March, 2011, the Respondent No. 5 obtained short term credit of Rs.7,00,00,000/- against pledge of 35,000 quintals of sugar stored in Godown No.6 from Sahyadari and Rs.12,20,00,000/- against pledge of 80,392 quintals of sugar stored in Godown Nos.7-I and 7-II from Navhind, the Petitioner being the

consenting party to the loan transaction.

6. The default by Respondent No.5 towards the dues of Rs.36,22,66,591/- of the sugarcane growers led to issuance of Recovery Certificate by the Respondent No. 2 on 28<sup>th</sup> May, 2011, and attachment of the sugar stored in various godowns including the pledged sugar. Vide auction notice dated 16<sup>th</sup> June, 2011, the auction of the attached sugar was scheduled on 22<sup>nd</sup> June, 2011 in office of Respondent No. 3.

7. Navhind and Sahyadri challenged the auction sale by filing Writ Petition Nos. 4533 of 2011 and 4539 of 2011 respectively objecting to the auction of the pledged sugar and claiming priority over the dues of the sugarcane growers and the workers. Vide Order dated 22<sup>nd</sup> June, 2011, this Court permitted the Tahsildar to proceed with the auction after fixing the upset price with further direction to deposit the auction proceeds of the pledged sugar in this Court with the Registrar (Judicial) to be invested in nationalized bank in fixed deposit.

8. The auction conducted fetched proceeds of Rs.52,95,36,483/- and included proceeds from sale of pledged sugar of Rs.27,94,27,910/-. As per the directions in order dated 22<sup>nd</sup> June, 2011, the auction proceeds of pledged sugar was deposited with the Registrar (Judicial) and invested in nationalized bank. The balance amount of Rs.25,01,08,573/- remained with the Collector out of which Rs. 20,00,00,000/- was disbursed to the workers and the sugarcane



growers.

9. Writ Petition Nos. 4533 of 2011 and 4539 of 2011 of Navhind and Sahyadri came to be disposed of vide order dated 12<sup>th</sup> August, 2011 in light of the statement made by Assistant Government Pleader that the amounts will be disbursed as per hierarchy keeping in view the settled position of law within a period of four weeks.

10. Vide order dated 20<sup>th</sup> September, 2011, the Collector decided the entitlement and priority in disbursement of the auction proceeds in the following manner:

- (a) Rs 4,66,40,511/ towards payment of Provident fund dues on first priority;
- (b) Rs. 36,22,66,591/- plus interest at the rate of 15% p.a. to the sugarcane growers;
- (c) Balance amount to be paid to the workers of the Petitioner-sugar factory.

11. As the debt of Sahyadri and Navhind remained unsatisfied, Writ Petition No.8452 of 2011 and Writ Petition No.8453 of 2011 were filed by them, which was disposed of vide common order dated 10<sup>th</sup> February, 2012, relegating the parties to avail the alternate statutory remedy of civil suit under section 218(2) of Maharashtra Land Revenue Code, 1966 and directing the amount of Rs.27,94,27,910/- invested in this Court to continue to remain invested in fixed deposit till 30<sup>th</sup> June, 2012.

12. Against order dated 10<sup>th</sup> February, 2012, Sahyadri and Navhind

filed Civil Appeal No.1840 of 2013 and Civil Appeal No.1841 of 2013 before the Apex Court, which was allowed by the Apex Court vide order dated 28<sup>th</sup> March, 2016 setting aside order dated 10<sup>th</sup> February, 2012 and directing the concerned authorities to disburse the amount in light of the observations made in the order in respect of the entitlement of the Credit Societies in precedence over the dues payable to the workers and sugarcane farmers, under Sugarcane (Control) Order, 1966 with the clarification that the amount already disbursed shall not recovered from the workers and the sugarcane farmers.

**13.** Civil Applications Nos. 2604 of 2016 and 2567 of 2016 were filed by Navhind and Sahyadari in the disposed of Writ Petition Nos.8452 of 2011 and 8453 of 2011 for direction to the Registry to make the payment of the dues payable along with contractual rate of interest payable on the principal sum from the deposited amount. The Additional Commissioner of Sales Tax also filed Civil Application Nos.1487 of 2017 and 1476 of 2017 in the civil applications filed by Navhind and Sahyadari seeking withdrawal of its dues from the deposited amount.

**14.** Vide order dated 22<sup>nd</sup> February, 2017, this Court directed the Collector to determine the amount payable to Navhind and Sahyadari and detailed report was submitted in April, 2017 stating that Sahyadri

would be entitled to Rs.15,18,35,000/- and Navhind would be entitled to Rs.25,80,76,000/- comprising of principal plus interest at the contractual rate plus penal interest. Civil Application (Stamp) No.33923 of 2017 was filed by the Respondent No.5, i.e., Tasgaonkar Sugar Mills Ltd. questioning the report of Collector computing the dues payable by applying contractual rate of interest.

**15.** By common interim order dated 23<sup>rd</sup> January 2018 passed in all the civil applications, this Court observed that there was no direction issued by the Apex Court in the judgment dated 28<sup>th</sup> March, 2016 permitting the High Court to adjudicate the rival claims of the Sales Tax Department and Respondent No.5, Tasgaonkar Sugar Mills Ltd. and recorded the consent of the counsels appearing for the Sales Tax Department and Respondent No.5 that they would apply to the Apex Court for appropriate clarification. The Sales Tax Department submitted that they would not seek clarification of the order, whereas Respondent No. 5 submitted that the application was filed before the Apex Court for appropriate directions/clarification. It appears that subsequently the application filed by Respondent No.5 for clarification came to be dismissed for non-removal of office objections.

**16.** Vide common order dated 11<sup>th</sup> July 2022, all civil applications came to be disposed of by relegating the parties to the concerned authorities for disbursement of amount as directed by the Apex Court

and vide order dated 27<sup>th</sup> February, 2023, this Court directed the transfer of amounts deposited in this Court to the office of Collector, Kolhapur for disbursement in accordance with the directions given by the Apex Court vide order dated 28<sup>th</sup> March, 2016.

**17.** Pursuant thereto, hearing was conducted by Respondent No.3-Collector and vide impugned order dated 31<sup>st</sup> March 2023 held that Sahyadri was entitled to Rs.19,60,00,000/- and Navhind was entitled to Rs.34,16,00,000/- by applying contractual rate of interest of 15% p.a. on the principal amount, which amounts were disbursed on the same day.

**SUBMISSIONS:**

**18.** Mr. Kumbhakoni, learned Senior Advocate appearing for the Sugar Factory does not dispute that interest is payable to the credit societies, but would emphasize that the interest would be the interest accrued on the fixed deposit from date of deposit in this Court in the year 2011. He submits that the debt stands discharged upon deposit of auction proceeds in the Court and therefore, the contractual rate of interest will be payable only from the date of disbursal of loan amount, i.e. 28<sup>th</sup> March, 2011 till the date of deposit in this Court, i.e. on 26<sup>th</sup> June, 2011 and thereafter, only the interest actually accrued on the fixed deposits with the nationalized bank is payable.

**19.** He submits that the Apex Court by judgment dated 28<sup>th</sup> March,

2016 decided the issue of priority and has not upheld the entitlement of Credit Societies to contractual rate of interest which was required to be considered by Respondent No.3-Collector, who has not rendered any finding on the issue whether contractual rate of interest would be applicable or the actual interest accrued on the fixed deposits. He submits that grant of contractual rate of interest @ 15% has resulted in unjust enrichment to the Credit Societies. He submits that it is settled position across all branches of law whether it be the Arbitration Act or Civil Procedure Code or Land Acquisition Act that upon the deposit into the Court, the interest shall cease to run. He submits that the principles analogous to Order XXI, Rule 1 of Code of Civil Procedure, 1908 [for short, "*the CPC*"] have to be applied in the present case and sub-rule (4) of Order XXI, Rule 1 of the CPC provides where the amount has been deposited in the Court, the liability to pay interest shall cease. He draws support from the following decisions:-

***Union of India vs. M.P. Trading and Investment RAC Corpn. Ltd.***<sup>1</sup>

***H.P. Housing and Urban Development Authority vs. Ranjit Singh Rana***<sup>2</sup>

***Prem Nath Kapur vs. National Fertilizers Corpn of India Ltd.***<sup>3</sup>

***Gurpreet Singh vs. Union of India***<sup>4</sup>

***Ramacivil India Constructions Pvt. Ltd. vs. Union of India***<sup>5</sup>

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- 1 (2016) 16 SCC 699.
  - 2 (2012) 4 SCC 505.
  - 3 (1996) 2 SCC 71.
  - 4 (2006) 8 SCC 457.
  - 5 2024 SCC OnLine Del 4899.

**20.** Mr. Patil, learned counsel appearing for sugarcane growers would adopt the submissions of Mr. Kumbhakoni and would supplement the arguments by attributing delay to the credit societies as they filed civil applications before this Court instead of approaching the Collector for disbursement of amounts. He submits that while challenging order dated 10<sup>th</sup> February, 2012 before the Apex Court, it was the Credit Society themselves, who requested for the amount to remain invested, and therefore, there cannot be any grievance raised by the Credit Societies. He submits that the impugned order of the Respondent No.3-Collector does not deal with the issue of disbursement to the sugarcane growers and entire amount is disbursed to the credit societies. He submits that within the period of 4 months, the debt due to the Credit Society came to be deposited in this Court in excess of the debt amount. He submits that the orders passed by this Court were adverse to the Credit Societies and it was only in 2016, that the Apex Court had upheld the precedence of the dues of the Credit Societies over other dues.

**21.** *Per contra* Mr. Patwardhan appearing for the Credit Societies would counter the submissions of Mr. Patil by contending that it cannot be said that no orders were passed in his favour as ultimately all orders were overturned by the Apex Court. He submits that it was Respondent No.5, M/s. Tasgaonkar Sugar Mills Limited who was the

lessee of the Sugar Factory and had taken loan and defaulted in payment to the sugarcane growers which led to the issuance of recovery certificate and subsequent auction. He submits that it is only the amount realised from the sale of hypothecated sugar which came to the High Court and the balance amount was paid to the sugarcane growers and workers, therefore, the sugarcane growers have no cause for grievance. He submits that the Collector had, pursuant to the order, submitted a report in the civil applications filed by the Credit Society and had applied the contractual rate of interest, which report had not been challenged by any of the parties. He submits that the present petitions are also hit by principle of *res judicata* as Respondent No.5 M/s. Tasgaonkar Sugar Mills Ltd had filed a Civil application (Stamp) No.33923 of 2017 challenging the entitlement of the Credit Society to the contractual rate of interest. He submits that in the said Civil Applications, this Court by order of 23<sup>rd</sup> January, 2018 directed the parties to approach Supreme Court for clarification which was not done by the Sales Tax Department and though the Civil Application were filed by Respondent No.5, the same came to be dismissed for non-prosecution. He submits that the entitlement of the credit societies to the contractual rate of interest stands settled by the admission of Respondent No.5 in the communication dated 12<sup>th</sup> June, 2017 admitting that the Credit Societies are entitled to contractual rate of

interest and seeking satisfaction of the debt amount. He submits that as per the Lease Deed executed between the Sugar Factory and Respondent No.5, the sugar manufactured by Respondent No.5 was under the ownership of Respondent No.5 who was entitled to dispose of the sugar and would question *locus* of Petitioner to challenge the order of the Collector. He would further submit that proviso to Section 34 of the CPC provides for payment of interest at contractual rate.

**22.** He would further submit that the reliance placed on the provisions of Order XXI, Rule 1 of the CPC is misplaced as the amount was not a deposit in discharge of the decree drawing support from decision of the Apex Court in the case of ***P.S.L. Ramanathan Chettiar vs. O.R.M.P.R.M Ramanathan Chettiar***<sup>6</sup> which was followed by Delhi High Court in the case of ***DDA vs. Paragon Construction (India) Pvt. Ltd***<sup>7</sup> and this Court in ***Walter Bau- AG (IL) vs. Municipal Corporation of Greater Mumbai***<sup>8</sup>

**23.** In rejoinder, Mr. Kumbhakoni would submit that the decision of the Constitution Bench of the Apex Court in the case of ***Gurpreet Singh*** (supra) passed in the Land Acquisition matter approves the view taken by the Allahabad High Court in ***Amtul Habib vs. Mohd. Yusuf***<sup>9</sup> holding that where money was paid into court by judgment debtor in

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6 AIR 1968 SC 1047.

7 2015 SCC Online Del 6610.

8 2021 SCC Online Bom 10384.

9 ILR (1918) 40 ALL 125.



satisfaction of decree, interest on the decree would cease from the date of payment in proportion to the amount paid even if the whole amount is not deposited. He submits that the decision relied upon in the case of **Chettiar** (supra) was in the context of Tamil Nadu Agriculturists Relief Act, 1938 and is therefore, distinguishable.

**24.** Mr. Patil, in his rejoinder would submit that there is no question of application of the principle of *res judicata* as order of 23<sup>rd</sup> January, 2018 passed in Civil Application directing the parties to seek clarification from the Apex Court dated 23<sup>rd</sup> January, 2018 was an interim order.

**25.** Mr. Kapadia, learned counsel appearing for Respondent No.5 would support the Petitioner and would deny any admission on part of Respondent No.5 to the Credit Societies entitlement to the contractual rate of interest.

**REASONS AND ANALYSIS:**

**26.** The answer to the issue under consideration depends on whether the deposit of auction proceeds in this Court constitutes payment in discharge of debt of the credit societies. If the answer is in the affirmative, the principles analogous to sub-rule (4) of Rule 1 of Order XXI of CPC will apply and interest at contractual rate would stop running from date of deposit.

**27.** Order XXI of CPC governs the execution of decrees and orders

and Rule 1 sets out the various modes of paying money under the decree and one of the modes is by deposit into the Court. Sub-Rule (4) of Rule 1 of Order XXI provides for cessation of interest on the amount deposited in Court from the date of service of notice referred to in sub-rule (2). Rule 1 of Order XXI, reads thus:

**1. Modes of paying money under decree.**—(1) All money, payable under a decree shall be paid as follows, namely:—

(a) by deposit into the court whose duty it is to execute the decree, or sent to that Court by postal money order or through a bank; or

(b) out of Court, to the decree-holder by postal money order or through a bank or by any other mode wherein payment is evidenced in writing; or

(c) otherwise, as the Court which made the decree, directs.

(2) Where any payments is made under clause (a) or clause (c) of sub-rule (1), the judgment-debtor shall give notice thereof to the decree-holder either through the Court or directly to him by registered post, acknowledgment due.

(3) Where money is paid by postal money order or through a bank under clause (a) or clause (b) of sub-rule (1), the money order or payment through bank, as the case may be, shall accurately state the following particulars, namely:—

(a) the number of the original suit;

(b) the names of the parties or where there are more than two plaintiffs or more than two defendants, as the case may be, the names of the first two plaintiffs and the first two defendants;

(c) how the money remitted is to be adjusted, that is to say, whether it is towards the principal, interest or costs;

(d) the number of the execution case of the Court, where such case is pending; and

(e) the name and address of the payer.

(4) On any amount paid under clause (a) or clause (c) of sub-rule (1), interest, if any, shall cease to run from the date of service of the notice referred to in sub-rule (2).

(5) On any amount paid under clause (b) of sub-rule (1), interest, if any, shall cease to run from the date of such payment:

Provided that, where the decree-holder refuses to accept the postal money order or payment through a bank, interest shall cease to run from the date on which the money was tendered to him, or where he avoids acceptance of the postal money order or payment through bank, interest shall cease to run

from the date on which the money would have been tendered to him in the ordinary course of business of the postal authorities or the bank, as the case may be.

**28.** Following sub-rule (4), the liability to pay interest on the amount due under the decree ceases upon the deposit of money by the judgment debtor in the Court, which is one of the modes of paying money under decree. The issuance of notice under Sub-Rule (2) is with the intent to enable the decree-holder to withdraw the amount deposited. For the deposit in Court to qualify as a payment in discharge of debt, there must be a duly adjudicated debt, in discharge whereof, the deposit is made, even if the proceedings challenge the entitlement of the decree-holder to the amount adjudicated. In such an eventuality as the money is deposited in discharge of the debt and made available for withdrawal to the decree-holder, the interest would stop running from date of deposit.

**29.** Contrast this, in the present case, the auction of the pledged sugar was not at the instance of the credit societies for recovery of its debt, but was the consequence of execution of Recovery Certificate issued by the Commissioner of Sugar for recovery of the dues of the sugarcane growers. The amount due to the Navhind and Sahyadri was not adjudicated in any Forum and there was no decree or Award crystallising the amount due and payable. The credit societies in order to pre-empt eroding of their security by reason of auction challenged

the auction of the pledged sugar in this Court. The circumstances in which the deposit of auction proceeds of pledged sugar was ordered was that the auction was scheduled to which objection and to tide over the obstruction raised to the auction proceedings, this Court by order dated 22<sup>nd</sup> June, 2011 permitted the auction to proceed by directing the deposit of auction proceeds in this Court.

**30.** The Petitions came to be disposed of vide order dated 12<sup>th</sup> August, 2011 with direction to decide the entitlement of the credit societies. The deposit following the auction was not released to the credit societies and on the contrary, the entitlement of the credit societies to the auction proceeds was left to the determination of the Collector. When the entitlement of the credit societies to the auction proceeds itself was still at pre-decretal stage and remained to be adjudicated, and not acknowledged by the defaulters, in my view, the deposit of the auction proceeds in this Court was evidently with the intent to secure the money, in event the entitlement was established, and to ensure that the auction proceeds seamlessly.

**31.** The claim of credit societies came to be rejected by the Collector's order dated 20<sup>th</sup> September, 2011 and it is only after a lapse of about five years by reason of the Apex Court's decision dated 28<sup>th</sup> March, 2016, that the precedence of the credit societies dues over the dues of sugarcane growers and workers was upheld. The Apex Court

by order dated 28<sup>th</sup> March, 2016 held in Paragraph No.14 as under:

“14. For the reasons, as discussed above, both the appeals deserve to be allowed. Accordingly, the appeals are allowed. The impugned judgment and order dated 10.2.2012, passed in Writ Petition No 8452 of 2011 and 8453 of 2011 is set aside. We direct the authorities concerned to disburse the amount in light of the observations made above regarding entitlement of the appellants with precedence over the dues payable to workers and sugarcane farmers under Sugarcane (Control) Order, 1966. However, we clarify that the amount already distributed shall not be recovered from the workers and the sugarcane farmers. There shall be no order as to costs.”

32. Despite the Apex Court directing to the authorities to disburse the amount, there was no disbursement and the credit societies were once again constrained to approach this Court by filing civil applications seeking relief of disbursement, which was justified as the amounts were lying deposited in this Court. The applications for withdrawal were resisted by the statutory authorities and Respondent No 5, who raised an objection to the application of contractual rate of interest by way of Civil Application No.1476 of 2017. No order of withdrawal, even conditional, in view of the rival claims raised, was permitted and by order dated 11<sup>th</sup> July, 2022, the applications were disposed of by relegating the parties to approach the authority concerned for disbursement of the amount, which led to passing of the impugned order only on 31<sup>st</sup> March, 2023. The net result was that from the date of deposit of the auction proceeds in this Court i.e. from 22<sup>nd</sup> June, 2011 till order of Collector dated 31<sup>st</sup> March, 2023, the credit societies were deprived of the benefit of their due amounts.

**33.** In ***P.S.L. Ramanathan Chettiar*** (supra), the Apex Court held in Paragraph Nos. 12 and 13 as under:

**“12.** On principle, it appears to us that the facts of a judgment-debtor’s depositing a sum in court to purchase peace by way of stay of execution of the decree on terms that the decree-holder can draw it out on furnishing security, does not pass title to the money to the decree-holder. He can if he likes take the money out in terms of the order, but so long as he does not do it, there is nothing to prevent the judgment-debtor from taking it out by furnishing other security, say, of immovable property, if the court allows him to do so and on his losing the appeal putting the decretal amount in court in terms of Order 21 Rule 1 of CPC in satisfaction of the decree.

**13.** The real effect of deposit of money in court as was done in this case is to put the money beyond the reach of the parties pending the disposal of the appeal. The decree-holder could only take it out on furnishing security which means that the payment was not in satisfaction of the decree and the security could be proceeded against by the judgment-debtor in case of his success in the appeal. Pending The determination of the same, it was beyond the reach of the judgment-debtor.”

**34.** The judgment though rendered in context of whether there could be scaling down of decree under the provisions of Tamil Nadu Agriculturist Relief Act, 1938 and the judgment being prior to amendment of 1976 to CPC, the principles are squarely applicable for considering whether the payment was payment under Rule 1 of Order XXI. The principle laid down in ***Chettiar*** (supra) was followed by the Apex Court in ***Delhi Development Authority v. Bhai Sardar Singh and Sons***<sup>10</sup>, where the Arbitration Award granted interest @ 18% on the

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<sup>10</sup> 2020 SCC Online SC 1450.

principal sum and during hearing before the Appellate Court, the judgment-debtor was directed to deposit the entire awarded amount along with interest, which was deposited. The application for withdrawal after dismissal of the objections was allowed. The Apex Court held that the deposit by the judgment-debtor cannot be treated as payment in terms of Rule 1 of Order XXI of CPC and held in paragraph 20 as under:

**“20.** When we turn to the facts of the present case, we have no doubt in our mind that the payment of Rs 58,80,380/- made by the appellant, as recorded in the order dated 20<sup>th</sup> May, 2002 cannot be treated as payment in terms of Rule 1 of Order XXI of the Code as this amount was deposited in the Court, but the respondent was not permitted and allowed to withdraw in spite of their application. To this extent, the High Court is right in relying upon the decision of this Court in *P.S.L. Ramanathan Chettiar* (supra) wherein it has been held as under:

**“12.** On principle, it appears to us that the facts of a judgment-debtor’s depositing a sum in court to purchase peace by way of stay of execution of the decree on terms that the decree-holder can draw it out on furnishing security, does not pass title to the money to the decree-holder. He can if he likes take the money out in terms of the order; but so long as he does not do it, there is nothing to prevent the judgment debtor from taking it out by furnishing other security, say, of immovable property, if the court allows him to do so and on his losing the appeal putting the decretal amount in court in terms of Order 21 Rule 1 CPC in satisfaction of the decree.

**13.** The real effect of deposit of money in court as was done in this case is to put the money beyond the reach of the parties pending the disposal of the appeal. The decree-holder could only take it out on furnishing security which means that the payment was not in satisfaction of the decree and the security could be proceeded against by the judgment-debtor in case of his success in the

appeal. Pending The determination of the same, it was beyond the reach of the judgment-debtor.”

**35.** In *Nepa Limited through its Senior Manager (Legal) v. Manoj Kumar Agrawal*<sup>11</sup>, the dispute was as regards the payment of interest as per award till decision of appeal or interest on net principal amount after setting off the interest due from the amount withdrawn by the decree-holder. The Apex Court noted in paragraph 14 that when the deposited amount is withdrawn and gets credited in account of decree-holder, he is not entitled to interest on deposited amount, even when there is failure on part of judgment-debtor to issue notice. The Apex Court supported the reasoning by the factual position in that case and held in paragraph 24 as under:

**24.** The respondent submits that the payment of Rs. 7,78,280/- being conditional, the respondent would have been under an obligation to refund the said amount in case the appellant had succeeded in the appeal under Section 37 of the Act, 1996. This argument does not impress, as in the event the appellant had succeeded in their appeal, the entire amount paid would have been refundable. The undertaking was not onerous, and was to operate only if the amount of Rs. 7,78,280/- was not refunded by the respondent. The respondent had obviously used and utilized the money. The appellant did not have any right on the money paid to the respondent, who could use it in a manner and way he wanted. There was no charge. Money is fungible and would have gotten mixed up with the other amounts available with the respondent. Right to restitution would not make the payment conditional. Interest has been jurisprudentially defined as the price paid for money borrowed, or retained, or not paid to the person to whom it is due, generally expressed as a percentage of amount in one year. It is in the nature of the compensation allowed by law or fixed by parties, for use or forbearance or damage for its detention.<sup>8</sup> In the context of the present case, interest would be the compensation payable by the appellant to the

<sup>11</sup> 2022 SCC Online SC 1736.



respondent, for the retention or deprivation of use of money. Therefore, once the money was paid to the respondent, interest as compensation for deprivation of use of money will not arise.

**36.** The absence of any fetters on right of the decree-holder to the amount deposited in discharge of the debt and making it available to the decree-holder, makes the difference. It defies principles of equity that though the amounts deposited in this Court were beyond the reach of the credit societies by resisting their claim itself, the contractual obligations should be considered as fulfilled by treating the debt as extinguished. There is debt due to the credit societies, which debt carries interest at the rate as per the contractual arrangement. The auction proceeds of the pledged sugar was out of reach of the credit societies from the date of deposit in the year 2011 and the title in the deposited auction proceeds did not pass to the credit societies at any point of time. The deposit in this Court was not with the intent to extinguish the debt, but by reason of order passed by this Court to secure the debt pursuant to an auction which has been conducted by a third party and not by the credit societies. In the present case, it cannot be said that the distinction between the deposit made in Court and deposit under Order XXI, Rule 1 of CPC is more of form than of substance, as there were fetters placed on the right of withdrawal and the deposit was not an unconditional deposit.

**37.** As inaction on part of credit societies for withdrawal of their due

amounts is not demonstrated from the facts, interest as per the contract would continue to run throughout. Even if the amounts came to be deposited within the time for repayment, the same was not disbursed to the credit societies. The contractual obligations remaining unfulfilled, the credit societies are entitled to the contractual rate of interest till the date of receipt of payment.

**38.** The Collector vide impugned order dated 31<sup>st</sup> March, 2023 directed the payment to be made to the credit societies by computing contractual rate of interest. Although it is sought to be contended that there was no consideration by the Collector to the objection raised for application of contractual rate of interest, in ordinary course, remand would have been appropriate. However, as the parties were heard at length by this Court, the issue is decided by this Court as in peculiar facts of this case, the litigation should not be amplified by remanding the matter to the Collector to consider afresh.

**39.** Coming to the decisions cited by Mr. Kumbhakoni in ***Union of India v. M.P. Trading and Investment RAC Corpn. Ltd.*** (supra), two-judge bench of the Apex Court followed the decision in the case of ***H.P. Housing and Urban Development Authority v. Ranjit Singh Rana*** (supra) which held that in context of Section 31(7)(b) of Arbitration and Conciliation Act, 1996, the expression "payment" occurring in sub-clause (b) of Section 31 of the Arbitration Act would mean the

extinguishment of liability arising out of award and signifies the satisfaction of the award as the deposit of the award amount in the Court is nothing but payment to the credit of the decree-holder. The Apex Court was considering whether the deposit of the amount in the Court can be equated with the date of the payment. Pertinently, the Apex Court has held that the word “payment” may have different meaning in different context, however, in the context of Section 37 of the Arbitration Act, the Apex Court held the same to mean extinguishment of liability. In facts of that case, the amount was deposited in the Court in satisfaction of the award amount and therefore, the Apex Court held that the same amounts to “payment” as envisaged under Section 31(7)(b) of the Arbitration Act.

**40.** In the case of *Prem Nath Kapur and Another vs National Fertilizers Corpn. Of India Ltd and Others* (supra), the Apex Court was considering the issue as to when the liability of the State to pay interest ceases under the Land Acquisition Act, 1894 [for short, “**the Land Acquisition Act**”]. The Apex Court considered various provisions of Land Acquisition Act and after noting Section 34 of Land Acquisition Act, held that the said provision fastens the liability to pay interest on the amount of compensation determined under Section 23 of the Land Acquisition Act with the interest under Section 34 from the date of taking possession till the date of payment or deposit into the Bank to

which reference under Section 18 has been made. The decision does not assist the case of Petitioners, as the deposit in this case was not with intent to extinguish the liability.

**41.** In ***Gurpreet Singh vs Union of India*** (supra), the Constitution Bench of the Apex Court was considering the issue of rules of appropriation in execution of money decree and whether the rule is same in the case in the decree under the Land Acquisition Act. It is in that context, that the Constitution Bench considered the provisions of Order XXI, Rule 1 of the CPC and held that if the money is paid in the Court by the judgment-debtor in satisfaction of the decree, interest on the decree would cease from the date of payment. As I have already held that the deposit of auction proceeds in the Court was not a deposit by judgment-debtor under Order XXI, Rule 1 of the CPC, the Petitioners do not derive any benefit from the said decision.

**42.** The decision of the Delhi High Court in the case ***Ramacivil India Constructions Pvt. Ltd.*** (supra) which dealt with the issue of entitlement to the interest after the decree-holder under the Arbitration Act had received the amount, considered the decisions noted above. The distinguishing fact in that case is that the decree-holder was permitted to withdraw the said amount after noting that the deposit was an unconditional deposit and the decree-holder was not prevented from withdrawing the amount by placing any condition

on the withdrawal of the deposited amount. In the present case, as the Credit Societies have been resisted from withdrawal of the amount, the said decision does not assist the case of the Petitioners.

**CONCLUSION:**

**43.** The principles of Order XXI, Rule 1(4) of CPC are inapplicable in the present case, as the deposit of the auction proceeds of the pledged sugar in this Court was pursuant to order passed by this Court, evidently with the intent to secure the debt in event of entitlement of the credit societies and to tide over the obstruction in conducting the auction sale. The auction of the entire stock of sugar including the pledged sugar was at the instance of the Collector and not the credit societies and the proceeds were out of reach of the credit societies from the year 2011 till the year 2023. The deposit of the auction proceeds cannot be treated as payment in term of Rule 1 of Order XXI of CPC as though the amounts were deposited, the credit societies were not permitted to withdraw the amount as their claim was resisted throughout. The interest would therefore, not stop running from date of deposit and would apply at the contractual rate.

**44.** Resultantly, all three Petitions stand dismissed. Rule is discharged.

**[Sharmila U. Deshmukh, J.]**