

**WRIT APPEAL NO: 693 of 2024**

The Krishna District Cooperative Central Bank Limited and others ...Appellants

Vs.

Dasari Venkata Srinivasa Rao and others

...Respondents

Advocate for Appellants: Mr. P. Veera Reddy, Ld. Senior Counsel
appearing vice Mr. S.Dilip Jaya Ram

Advocates for Respondents: Mr. Ghanta Prasad, GP for Cooperation

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE RAVI CHEEMALAPATI**

DATE : 20.05.2025.

PER DHIRAJ SINGH THAKUR, CJ:

The present Writ Appeal has been preferred against judgment and order dated 09.07.2024 passed in writ petition No.5957 of 2024.

2. The learned single Judge has allowed the writ petition and held that the Registrar of Cooperative Societies had no jurisdiction to invoke its powers under the Andhra Pradesh Cooperative Societies Act, 1964 (hereinafter referred to as, "the Act of 1964") for recovery of debt due from the petitioner – respondent No.1 herein and that respondent No.5 in the writ petition that is the Krishna District Cooperative Central Bank Limited would have to resort to the procedure as prescribed under the Debt Recovery Tribunals Act, 1993 (hereinafter referred to as "the Act of 1993"). For arriving at the

aforementioned conclusion, reliance was placed by the learned single Judge on a Constitution Bench judgment of the Apex Court, in the case of **Pandurang Ganpati Chaugule vs. Vishwasrao Patil MurgudSahakari Bank Limited**¹.

3. With a view to understand the issue in the backdrop of which the present controversy has arisen, it is necessary to briefly state the material facts:

4. The petitioner, Dasari Venkata Srinivasa Rao, respondent No.1 herein availed a loan of Rs.25 Lakhs from the appellant Bank in the year 2019. Having committed a default in the payment of the instalments fixed, proceedings were initiated by the appellant Bank in terms of the provisions of the Act of 1964. Needless to say that the appellant is a Cooperative Society registered under the Andhra Pradesh Cooperative Societies Act, 1964 and is engaged in the business of banking. The banking business of the appellant - society is limited to its Members who may be advanced loans on such terms as are prescribed under law. The disputes between the Society and its Members in regard to any claim or debt, is governed by Chapter VIII and in particular Section 61, which envisages such a dispute to be referred to the Registrar for decision.

5. Chapter X of the Act of 1964 deals with execution of Decisions, Decrees and Orders passed by the authorities mentioned under the said Chapter. While sub-section (1) of Section 70 envisages the power of the Registrar or

¹(2020) 9 SCC 215

any person authorised by him to order a recovery of amounts as envisaged in the contingency in sub-clauses (a) to (f) of Section 70 (1), sub-section (2) of Section 70 envisages the mode and method of execution of the Decisions made under Sections 60, 71, 76, 77 and 78 through either a Civil Court having local jurisdiction on a certificate signed by the Registrar or any person authorised by him as if the order or decision were a decree of that Court, or by the Collector on an application made to him within prescribed time.

Sub-clause (c) of sub-section (2) of Section 70 also envisages recovery by the Registrar in the manner provided under sub-section (1). Further, Section 70(1) falling under Chapter X envisages as under:

“70. Power of the Registrar to recover certain amount by attachment and sale of property and execution of orders:—

(1) The Registrar or any person authorised by him in this behalf may, without prejudice to any other mode of recovery provided by or under this Act, recover—

- (a) any amount due under a decision or an order of the Registrar, or any person authorised by him, or an arbitrator;
- (b) any amount ordered to be paid towards the expenses of a general meeting of a society called under Section 32;
- (c) any amount awarded by way of costs under Section 56 to a society including a financing bank or a Federal society;
- (d) any amount payable 1 [xxx] towards fees under Section 58;
- (e) any amount ordered under Section 60 to be repaid to a society or recovered as a contribution to its assets ; or
- (f) any amount ordered under Section 66 to be recovered as a contribution to its assets, together with the interest, if any, due on such amount and the costs of process by the attachment and sale or by sale without attachment of the property of the person or the society against whom such decision or order, has been passed or obtained.”

6. Section 71 envisages the provisions for recovery of debts *inter alia* by a Society for recovery of any sum advanced to any of its Members. Under Section 71, the Registrar is vested with the power to issue a certificate for recovering any amount which is stated to be due from any of its Members, after making an enquiry in that regard. A certificate issued after enquiry, in terms of Section 71 (3), is deemed to be final and conclusive proof of the arrears stated to be due and the certificate is envisaged to be executed in the manner specified in sub-section (2) of Section 70.

7. In the present case, the appellant – Society having approached the Registrar of Cooperative Societies, issued a certificate in terms of Section 71 of the Act, which came to be challenged by the petitioner before the learned single Judge on the ground that it had no jurisdiction to entertain the proceedings under the A.P. Cooperative Societies Act.

8. The stand taken by the petitioner was that the Cooperative Society was carrying on a banking business and thus fell within the definition of Section 5(c) of the Banking Regulations Act, 1949. The case set up was that since banking falls within the legislative field of the Union, the State Legislature had no competence to legislate on a subject pertaining to recovery of debts to a Cooperative Bank, which otherwise fell exclusively within legislative domain of the Union. Reliance in this regard was placed upon a Full Bench judgment of the Andhra Pradesh High Court rendered in the case of **M. Babu Rao and**

others vs. Deputy Registrar of Cooperative Societies², which *inter alia*

held as under:

“138. On the analysis above, we conclude, declare and hold:

(a) That recovery of monies (whether called a debt, arrears or by any other name) due to a banking institution including a Co-operative Bank is a matter that integrally falls within the core and substantive area of the legislative field Banking in Entry-45, List-I of the Seventh Schedule of the Constitution.

(b) The above subject matter is therefore excluded from the State legislative field in Entry-32, List-II of the Seventh Schedule.

(c) ...

(d) A Co-operative Bank as defined in Section 5(cci) of the Banking Regulation Act, 1949 (as amended by Act 23 of 1965) is a Bank and a Banking company within the meaning of Section 2(d) and (e) of the Recovery of Debts due to Banks and Financial Institutions Act, 1993.

(e) A Tribunal constituted under the provisions of the Recovery of Debts due to Banks and Financial Institutions Act, 1993 has exclusive jurisdiction, powers and authority to entertain and decide application from a Co-operative bank for recovery of debts due to such bank, subject to the pecuniary limits of jurisdiction specified by or under the said Act.

(f) Section 71(1) of the 1964 Act in so far as it expressly confers power on the Registrar to issue a certificate for recovery of arrears of any sum advanced by a financing bank to its members, is beyond the legislative competence of the State.

(i) (a) No claim, application or other proceedings lodged or instituted before the Registrar, by a Co-operative Bank for recovery of the amount/ debt due from a member or other person pursuant to advances made in the course of its banking business could be entertained or determined by the Registrar.”

9. The learned single Judge by virtue of the judgment and order impugned dated 09.07.2024, allowed the writ petition by placing reliance upon the Constitution Bench judgment in the case of **Pandurang Ganpati Chaugule(supra)** and held that the appellant - Bank had to invoke the

²2005 SCC OnLine AP 491 : (2005) 4 ALD 582

jurisdiction of the Debts Recovery Tribunal or resort to the provisions of the SARFAESI Act for realisation of the amount in accordance with law.

10. At this stage, we deem it appropriate to refer to some of the relevant provisions of the Banking Regulations Act, 1949 (for short, the BR Act of 1949) as also the provisions of the Recovery of Debts and Bankruptcy Act, 1993 (for short, “the RDB Act, 1993”).

Provisions of the RDB Act, 1993:

The RDB Act of 1993 was enacted with a view to alleviate the problems being faced by banks and financial institutions in recovering the loans and enforcing the securities charged with them. The issue was examined by a committee who suggested remedial measures, including setting up of Special Tribunals for recovery of dues of the banks and financial institutions by following a summary procedure. The need to set up Special Tribunals was felt in view of the fact that approximately Fifteen Lakh cases filed by Public Sector Banks and a large number of cases filed by financial institutions involving more than Rs.5900 Crores and with a view to unlock the huge amount of public money in litigation and to recycle the funds for purposes of development of the country. The Act called as the Recovery of Debts and Bankruptcy Act, 1993 initially it was enacted as the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. The nomenclature of ‘the RDDB and FI Act of 1993’ was amended in the year 2016 and now reads as the Recovery of Debts and Bankruptcy Act, 1993 (for short, “RDB Act of 1993”).

Section 2(d) of the said Act defines banks to mean (i) banking company; (ii) a corresponding new bank; (iii) State Bank of India; (iv) a subsidiary bank; or (v) a Regional Rural Bank.

Section 2(e) envisages that a banking company shall have the meaning assigned to it in Clause (c) of Section 5 of the BR Act of 1949.

Sections 3 and 8 falling under Chapter II of the Act envisaged the establishment of Tribunals to be known as Debts Recovery Tribunals and Debts Recovery Appellate Tribunals, respectively.

Section 17, falling under Chapter III, specifies the jurisdiction and powers exercisable by the Tribunal for recovery of dues due to banks and financial institutions.

Section 18 deals with bar of jurisdiction and reads as under:

“18. Bar of Jurisdiction:- On and from the appointed day, no court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17:

[Provided that any proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 (1 of 2013) under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) shall be continued and nothing contained in this section shall, after such commencement, apply to such proceedings.]”

11. Provisions of Banking Regulations Act of 1949:

Section 5 of the BR Act, defines ‘banking’, ‘banking company’, as under:

“(b) “banking” means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on

demand or otherwise, and withdrawable by cheque, draft, order or otherwise;

(c) “banking company” means any company which transacts the business of banking 4 [in India];”

Section 56 falling under Part V of the BR Act reads as under:

“56. Act to apply to co-operative societies subject to modifications.— [Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act], shall apply to, or in relation to, co-operative societies as they apply to, or in relation to, banking companies subject to the following modifications, namely:—

(a) throughout this Act, unless the context otherwise requires,—

- (i) references to a “banking company” or “the company” or “such company” shall be construed as references to a co-operative bank,
- (ii) ...”

12. Before proceeding further, we deem it appropriate to briefly refer to the development of law after the decision of the Full Bench of the Andhra Pradesh High Court rendered in the case of **M. Babu Rao(supra)**.

13. The Apex Court in the case of **Greater Bombay Cooperative Bank Limited vs. United Yarn Textile (P) Ltd. and others³** was answering a reference on the following two issues which were framed:

- 1) Whether the RDB Act applies to debts due to co- operative banks constituted under the MCS Act, 1960; the MSCS Act, 2002 and the APCS Act, 1964?
- 2) Whether the State Legislature is competent to enact legislation in respect of co-operative societies incidentally transacting business of banking in the light of Entry 32, List II of Seventh Schedule of the Constitution?

³(2007) 6 SCC 236

Needless to say that the view expressed by the Full Bench of the Andhra Pradesh High Court, along with the view expressed by the Bombay High Court on the said issue came to be considered by the Apex Court in the case of **Greater Bombay Cooperative Bank Limited(supra)**.

14. The Apex Court in **Greater Bombay Cooperative Bank Limited(supra)** held that the provisions of 56(a) of the Banking Regulations Act, 1949, which were incorporated with effect from 01.03.1966, were made only to make applicable the provisions for regulating the banking companies to cooperative banks also and further that the object was not to define a cooperative bank to mean a banking company.

It proceeded to hold that since the definition of “banking company” in Section 5(c) of the Banking Regulations Act, 1949 had not been altered and was kept intact and that additional definitions were added at Section 56 (c) whereby “Co-operative Bank” was separately defined by newly inserted Clause (cci), the meaning of “banking company”, therefore necessarily had to be restricted and confined to the banks used in section 5(c) of the Banking Regulations Act. What was held in paragraph 73 is as under:

“73...The meaning of 'banking company' must, therefore, necessarily be strictly confined to the words used in Section 5(c) of the BR Act. 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 'co-operative bank' as defined in Section 5 (cci) and 'primary co-operative bank' as defined in Section 5 (ccv). However, the Parliament did not do so. There was thus a conscious exclusion and deliberate omission of co-operative banks from the purview of the RDB Act. The reason for excluding co-

operative banks seems to be that co-operative banks have comprehensive, self-contained and less expensive remedies available to them under the State Co-operative 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.”

On the issue regarding legislative competence of the state legislature to provide for a recovery mechanism for recovering of dues to a cooperative bank, the Apex Court held that, while Entry 43 of List I of the Seventh Schedule spoke of banking, insurance in financial corporations etc. but excluded expressly cooperative societies from its ambit, with an intention that the cooperative movement was left to the States for promotion. It further held that the Banking Regulations Act dealt with the regulation of banking business and that there was no provision whatsoever relating to the proceedings for recovery by Bank or its dues. The Apex Court held:

“72. The distinction between peoples' co-operative banks serving their members and corporate banks doing commercial transactions is fundamental to the constitutional dispensation and understanding co-operative banking generally and in the context of cooperative banking not coming under the ambit of the BR Act. Thus, even if the co-operatives are involved in the activity of banking which involves lending and borrowing, this is purely incidental to their main co-operative activity which is a function in public domain.

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:

"Co-operative banks" established under the Maharashtra Co-operative Societies Act, 1960 [MCS Act, 1960]; the Andhra Pradesh Co-operative Societies Act, 1964 [APCS Act, 1964]; and the Multi-State Co-operative Societies Act, 2002 [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 [BR Act]. Therefore, the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 [RDB Act] by invoking the Doctrine of Incorporation are not applicable to the recovery of dues by the co-operatives from their members.

98. The field of co-operative 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. Co-operative Banks constituted under the Co-operative Societies Acts enacted by the respective States would be covered by co-operative societies by Entry 32 of List II of Seventh Schedule of the Constitution of India.”

15. In Pandurang Ganpati Chaugule(supra), the following were the issues which fell for Apex Court’s consideration:

- I. Whether 'cooperative banks', which are cooperative societies also, are governed by Entry 45 of List I or by Entry 32 of List II of the Seventh Schedule of the Constitution of India, and to what extent?
- II. Whether 'banking company' as defined in Section 5(c) of the BR Act, 1949 covers cooperative banks registered under the State Cooperative Laws and also multi-State Cooperative Societies 29 (1955) 1 SCR 773, 30 (1964) 5 SCR 975?
- III. (a) Whether cooperative banks both at the State level and multi-State level are 'banks' for applicability of the SARFAESI Act?
- III. (b) ...

In the case of **Pandurang Ganpati Chaugule**, it was held that the Apex Court in **Greater Bombay Cooperative Bank Limited** had not considered in depth the various provisions of the Bank Regulations Act more particularly those contained in Section 56 of the Act, did not accept the findings recorded on various aspects and further held the same to be not binding. It was held that the Cooperative Societies were doing the banking business, which was not an incidental activity, but the main and the only activity. In paragraph 60, it was held:

“60. ... No doubt about it that every commercial activity cannot be brought within the scope of 'banking' in Entry 45 of List I. 'Banking'

itself has a wide meaning, and the activity of cooperative banks is definitely, beyond an iota of doubt, covered by Entry 45 of List I.”

Further it went on to hold that recovery of dues would be an essential function of any bank, financial institution and the Parliament could enact a law under List I Entry 45 to provide for a remedy of recovery.

However, with regard to the “incorporation, regulation and winding up” of the cooperative societies, in terms of Entry 32 of List II of the Seventh Schedule, it was held:

“87. It is apparent that 'incorporation, regulation and winding up' of the cooperative societies are covered under Entry 32 of List II of the Seventh Schedule of the Constitution of India, whereas 'banking' is covered by Entry 45 of List I. Thus, aspect of 'incorporation, regulation and winding up' would be covered under Entry 32 of List II. However, banking activity of such cooperative societies/banks shall be governed by Entry 45 of List I. The said banks are governed and regulated by legislation related to Entry 45 of List I, the BR Act, 1949 as well as the Reserve Bank of India Act under Entry 38 of List I. In the matter of licencing and doing business, a deep and pervasive control is carved out under the provisions of the BR Act, 1949 and banking activity done by any entity, primary credit societies, is a bank and is required to submit the accounts to the Reserve Bank of India, and there is complete control under the aforesaid Act. For activity of banking, these banks are governed by the legislation under Entry 45 of List I. Thus, recovery being an essential part of the banking, no conflict has been created by providing additional procedures under Section 13 of the SARFAESI Act. It is open to the bank to adopt a procedure which it may so choose. When 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.”

As regards whether the cooperative banks registered under the State Cooperative laws as also multi-state Cooperative Societies, are banking companies as defined under Section 5(c) of the Banking Regulations Act, 1949, the Apex Court in **Pandurang Ganpati Chaugule(supra)** held:

“103. ... Thus, when we apply the provisions of the Act of 1949 to a cooperative bank, the definition of 'banking company' has to be read to include a cooperative bank. Section 56(a) becomes part of Section 5(c), although it is located in a separate place. As only Part V of the Act applies to the cooperative banks, Section 56(a) amends the definition of the 'banking company,' and it becomes an integral part of Section 5(c), as the full effect is required to be given.

122. The cooperative banks, which are governed by the BR Act, 1949, are involved in banking activities within the meaning of Section 5(b) thereof. They accept money from the public, repayable on demand or otherwise and withdrawal by cheque, draft, order or otherwise. Merely by the fact that lending of money is limited to members, they cannot be said to be out of the purview of banking. They perform commercial functions. A society shall receive deposits and loans from members and other persons. They give loans also, and it is their primary function. Thus, they are covered under 'banking' in Entry 45 of List I.”

16. On a composite reading of the judgment rendered by the Full Bench of the High Court of Andhra Pradesh in the case of **M. Babu Rao(supra)**, the judgment of the Apex Court in **Greater Bombay Cooperative Bank Limited(supra)** as also the Constitution Bench judgment in **Pandurang Ganpati Chaugule(supra)**, it becomes clear that the banking activity carried on by cooperative banks is covered at Entry 45 of List I and further that the provisions of the Banking Regulation Act, 1949, do apply to a cooperative bank and that the definition of a banking company has to be read to include a cooperative bank.

17. It also becomes clear that the power of a banking company to recover its arrears and dues from its members being an essential part of banking activity could be provided for by the Parliament in terms of Entry 45 List I. It was in that context held by the Apex Court that the SARFAESI Act, 2002,

enacted by the Parliament providing for an additional procedure for recovery under Section 13 of the SARFAESI Act was not *ultravires* the Constitution.

18. It can be seen that the definition clauses of the SARFAESI Act and in particular 2(c) which defined a “bank” and 2(d) which defined a “banking company” are similar to Clauses 2(d) and 2(e) which define a bank and a banking company under the RDB Act, 1993.

19. Learned counsel for the appellant, Mr. P. Veera Reddy, would submit that the ratio of the judgment in **Pandurang Ganpati Chaugule(supra)** did not in so many words hold that the recovery procedure enabling the cooperative societies to recover their dues in the light of the provisions made by the Parliament under the SARFAESI Act, were no longer available to the Registrar. In fact, a lot of emphasis was placed on paragraph 142.4 of the judgment of the Apex Court to buttress the point that at best the provision made by the Parliament by enacting the SARFAESI Act could be said to be only an additional procedure for recovery made available to cooperative banks. For facility of reference paragraph 142.4 of the judgment is reproduced hereunder:

“142.4. (3)(b) The Parliament has legislative competence under Entry 45 of List I of the Seventh Schedule 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 co operative banks. The provisions of Section 2(1)(c)(iv-a), of 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 co-operative banks registered under the State legislation.”

20. It can be seen that what was being considered by the Apex Court in **Pandurang Ganpati Chaugule'** case was primarily the issue as to whether the cooperative banks were governed by Schedule 7 of List I at Entry 45 and to what extent and further, "whether banking company as defined under Section 5(c) of the Banking Regulation Act, 1949 covered cooperative banks registered under the State Cooperative laws and also the Multi State Cooperative Societies". It was also considering the issue as to whether the cooperative banks at the State level and the multi-State level were banks for applicability of the SARFAESI Act. It is in that context that the Apex Court held that the banking business essentially fell within the Seventh Schedule of List I at Entry 45 and further that the SARFAESI Act would cover the cooperative banks both at State Level and multi-State Level.

21. The provisions of the RDB Act were not specifically gone into by the Apex Court in **Pandurang Ganpati Chaugule**, in fact, the argument advanced by the learned Senior Counsel is unsustainable in the context of the RDB Act, in view of the specific provisions of Sections 17, 18 and 19 of the said Act, to which a brief reference become necessary.

Section 17, falling under Chapter III of the RDB Act deals with Jurisdiction, Powers and Authority of the Tribunals, it envisages the Tribunal to decide applications from banks and financial institutions for recovery of debts due to such banks and financial institutions.

Section 18 of the Act pertains to Bar of Jurisdiction and reads as under:

“18. Bar of jurisdiction.—On and from the appointed day, **no court or other authority** shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court, and a High Court exercising jurisdiction under articles 226 and 227 of the Constitution) in relation to the matters specified in section 17:

[Provided that any proceedings in relation to the recovery of debts due to any multi-State co-operative bank pending before the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 (1 of 2013) under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) shall be continued and nothing contained in this section shall, after such commencement, apply to such proceedings.]”

Section 19 falling under Chapter IV, envisages the Procedure to be followed by the Tribunals. Whereas Sections 19 (1A) and 19 (1B) envisages as under:

“(1A) Every bank being, multi-State co-operative bank referred to in sub-clause (vi) of clause (d) of section 2, may, at its option, opt to initiate proceedings under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) to recover debts, whether due before or after the date of commencement of the Enforcement of the Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 (1 of 2013) from any person instead of making an application under this Chapter.

(1B) In case, a bank being, multi-State co-operative bank referred to in sub-clause (vi) of clause (d) of section 2 has filed an application under this Chapter and subsequently opts to withdraw the application for the purpose of initiating proceeding under the Multi-State Co-operative Societies Act, 2002 (39 of 2002) to recover debts, it may do so with the permission of the Tribunal and every such application seeking permission from the Tribunal to withdraw the application made under sub-section (1A) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:”

22. On a reading of the aforementioned provisions, it thus becomes clear that except the Tribunal as established under the RDB Act, no Court or other authority would be entitled to exercise any jurisdiction, power or authority, otherwise vested under Section 17 which deals with the power and authority

of the Tribunal to entertain and decide applications from banks and financial institutions for recovery of debts. The only exception made is in favour of the multi-State Cooperative Societies who had initiated proceedings in regard to recovery of its debts which were pending on the date of commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Act, 2012 under the Multi-State Cooperative Societies Act, 2002, only those proceedings would be permitted to continue and nothing contained under Section 18 would apply to such proceedings.

On a reading of the aforementioned provisions, it would be clear that the option to approach either the Tribunal established under the RDB Act or resort to the mechanism provided under the multi-State Cooperative Societies Act is limited only in the case of multi-State Cooperative Societies and not the other cooperative banks, who are obliged for purposes of recovery to approach the Tribunal as established under the provisions of the RDB Act for recovery of such dues. The aforementioned provisions appear not to have been noticed by the counsel appearing for the appellant which clearly create the bar of jurisdiction on a Court or any other 'authority', which authority in the context of the provisions of the Andhra Pradesh Cooperative Societies Act would be the Registrar, from entertaining and deciding any claim as regards the debt due to a cooperative bank.

23. Even when a multi-State Cooperative Bank in terms of Section 19 (1A) has been given the option to opt to initiate proceedings either under the multi-

State Cooperative Society Act or to lay its claim before the Tribunal under the RDB Act, yet, in the case of a cooperative bank other than a multi-State Cooperative Bank there is no such exception made muchless an option given to such a Cooperative Bank. In our opinion, the remedy as provided under the provisions of the Andhra Pradesh Cooperative Society Act, 1964, for purposes of recovery of debt due from its members is no longer available and the remedy would lie only under the provisions of the RDB Act, 1993, as recovery of dues by Cooperative Banks being an essential feature of a banking activity as held by the Apex Court in the case of **Pandurang Ganpati Chaugule**, could be dealt with only by an enactment framed by the Parliament in terms of List I Entry 45 of the Seventh Schedule.

24. Be that as it may, we find no merit in the present writ appeal which is accordingly, dismissed.

No order as to costs. Pending miscellaneous applications, if any, in this appeal shall stand closed.

DHIRAJ SINGH THAKUR, CJ.

RAVI CHEEMALAPATI, J.

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