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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.184 OF 2025
IN
WRIT PETITION NO.2679 OF 2023

ATUL
GANESH
KULKARNI

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Amritlal P. Shah,
Adult, aged about 70 years, Indian
Inhabitant, Occupation: Business,
R/at: B-3, 1st Floor, Garden View,
Chandavarkar Road, Borivali (West),
Mumbai 400 092.

... Petitioner

V/s.

- 1. The TJSB Sahakari Bank Limited,**
A Multi-State Cooperative Bank,
registered under the provisions of
the Multi-State Coop. Societies
Act, 2002 (earlier known as the
Thane Janata Sahakari Bank Ltd.)
and registered under the provisions
of the Maharashtra Cooperative
Societies Act, 1960, through it's
Officer, having its recovery officer
at Madhukar Bhavan, Road No.6,
Wagle Industrial Estate,
Thane (West) 400 604
- 2. A.S. Construction,**
14, Laxmi Market, Ground Floor,
Vartak Nagar, Pokhran Road NO.1,
Thane (West)
- 3. Surendra Pratap M. Yadav,**
Bungalow No.15, Runwal Plaza,

Mr. Kores India Ltd., Vartak Nagar,
Thane

4. **Mattuk Narayan A. Tiwari,**
Surve Building, Edulji Raod,
Charai, Thane – 400 601

5. **Sunita P. Mishra,**
11, Kamal Society, Ram Mandir
Road, Thane (West)

... Respondents

Mr. Sharad Bansal i/by Mr. Laxman Jain for the
petitioner-original respondent No.1.

Mr. Shadab Jan with Mr. Nikhil Rajani and Mr. Ajay
Deshmane i/by V. Deshpande & Co., for respondent
No.1-TJSB.

CORAM : **AMIT BORKAR, J.**

RESERVED ON : **DECEMBER 19, 2025**

PRONOUNCED ON : **DECEMBER 23, 2025**

JUDGMENT:

1. By judgment and order dated 11 November 2025, the writ petition filed by Respondent No.1 was allowed and the order dated 27 December 2021 passed by the Maharashtra State Cooperative Appellate Court was set aside. Consequentially, the money decree dated 25 October 2017 passed in favour of Respondent No.1 and against the present Petitioner stood restored. The Petitioner, who was the original respondent in the writ petition, has preferred the present review petition seeking review of the judgment dated 11 November 2025. The sole ground urged in the review petition is

the order dated 3 November 2025 passed by the learned Single Judge of this Court at the Nagpur Bench in *Washim Urban Cooperative Bank Ltd. v. Girishchandra, in Writ Petition No.3783 of 2021* dated 03.11.2025(Nagpur Bench) wherein it has been observed that a cooperative bank is a bank within the meaning of the Recovery of Debts and Bankruptcy Act, 1993(“RDB Act”)and the Cooperative Courts under the Maharashtra Cooperative Societies Act, 1960(“MCS Act”) are barred from entertaining applications for recovery of debts exceeding Rupees Ten Lakhs.

2. The Respondent Bank calls in question the correctness of the Single Judge’s decision in *Washim Urban Co-operative Bank Ltd. v. Girishchandra*, which held that a co-operative bank’s loan recovery claims in excess of ₹10 lakh fall exclusively within the jurisdiction of the Debts Recovery Tribunal (DRT) under the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and oust the Co-operative Court’s jurisdiction under Section 91 of the MCS Act . The Petitioner in this review submits that *Pandurang Ganpati Chaugule v. Vishwasrao Patil Murgud Sahakari Bank Ltd.* [(2020) 9 SCC 215] and the *Washim Urban* decision itself dictate that co-operative banks are “banks” under central law and must proceed only under the RDB Act, not under Section 91 MCS Act. The Respondent contends that *Pandurang Ganpati Chaugule* dealt exclusively with the SARFAESI Act, and did not alter the law as to the RDB Act; that the definition of “bank” in the RDB Act differs; and that earlier law in *Greater Bombay Coop. Bank Ltd. v. United Yarn Tex Pvt. Ltd.*, (2007) 6 SCC 236 excluded co-op banks from RDB jurisdiction. He further argues that the constitutional basis

(Part IX-B of the Constitution via the 97th Amendment) supporting *Pandurang Ganpati Chaugule* has since been struck down in *Union of India v. Rajendra N. Shah* [(2022) 19 SCC 520], rendering *Pandurang Ganpati* Chougule's reasoning weak.

3. I have heard learned counsel and have considered all submissions. The principal questions are (a) whether a co-operative bank is a "bank" under the RDB Act so as to confer exclusive jurisdiction on the DRT for debt recovery beyond ₹10 lakh, thereby ousting the Co-operative Court under Section 91 MCS Act, and (b) whether *Pandurang Ganpati Chaugule* and the *Washim Urban* judgment applying it, require reconsideration by a larger bench in view of the Respondents' contentions. Because these issues involve a significant interplay of constitutional entries and conflicting precedents, and in the absence of a directly on-point Supreme Court ruling on the RDB Act, I refrain from a final determination on the merits and leave the matter to a larger bench. However, for completeness I detail below the arguments of each side and my provisional analysis of the competing legal positions.

Factual Background:

4. The facts are not in dispute. The Washim Urban Co-op Bank a society registered under the MCS Act had advanced loans to the respondents who were member-borrowers. The sums due exceeded ₹10 lakh. The Bank filed a recovery petition before the Co-operative Court under Section 91 MCS Act. The borrowers challenged the jurisdiction of the Co-operative Court on the

ground that the Debts Recovery Tribunal (DRT) under the RDB Act had exclusive jurisdiction for such claims. The Co-operative Court initially proceeded with the case. On appeal, the Co-operative Appellate Court relied on *Pandurang Ganpati Chaugule* and held that the Bank is a “bank” under the RDB Act, so that Sections 17–18 of the RDB Act apply and bar the Co-operative Court’s jurisdiction (as the claim exceeds the ₹10 lakh threshold). The Bank then challenged that ruling in this Court by way of writ petition under Article 226. The Single Judge in *Washim Urban Coop. Bank Ltd. v. Girishchandra* agreed with the Appellate Court: it found that *Pandurang Ganpati Chaugule* establishes that a co-operative bank is a “banking company” under the RDB Act, and that Section 18 RDB Act bars other forums for recovery above ₹10 lakh. The writ petitions were dismissed.

Petitioner’s Submissions:

5. The Petitioner submits that a co operative bank registered under the Maharashtra Co operative Societies Act, 1960 is not entitled to institute proceedings under Section 91 of the said Act before the Co operative Court for recovery of its dues. The only statutory remedy available to a co operative bank, including Respondent No.1 who was the original petitioner, is to invoke the jurisdiction of the Debts Recovery Tribunal under the Recovery of Debts and Bankruptcy Act, 1993. The Petitioner submits that the judgment delivered in *Washim Urban Co operative Bank Ltd. v. Girishchandra* states the prevailing position of law. The reasoning supporting this conclusion is set out hereinbelow.

A. Jurisdiction of the Debts Recovery Tribunal.

6. The Petitioner submits that a co operative bank is competent to institute proceedings under Section 17 of the RDB Act for recovery of its debts. Section 17 expressly confers jurisdiction upon the Debts Recovery Tribunal to entertain applications filed by banks and financial institutions. Section 2(d) of the RDB Act defines the expression bank and includes within it a banking company. Section 2(e) of the RDB Act assigns to the expression banking company the same meaning as contained in Section 5(c) of the Banking Regulation Act, 1949.

7. The SARFAESI Act, 2002 adopts an identical legislative scheme. Section 2(1)(c) defines a bank to include a banking company. Section 2(1)(d) of the SARFAESI Act defines banking company by expressly incorporating the definition under Section 5(c) of the Banking Regulation Act. Thus, both the RDB Act and the SARFAESI Act trace the meaning of banking company to the Banking Regulation Act.

8. The Petitioner submits that prior to the Constitution Bench decision in *Pandurang Ganpati Chaugule*, a three Judge Bench of the Supreme Court in *Greater Bombay Co operative Bank Ltd.* had held that a co operative bank did not fall within the definition of a banking company under Section 5(c) of the Banking Regulation Act and therefore could not invoke the RDB Act.

9. The Constitution Bench in *Pandurang Ganpati Chaugule* has expressly overruled the decision in Greater Bombay. The Court has categorically held that a co operative bank is included within the

definition of a banking company under Section 5(c) of the Banking Regulation Act. Consequentially, it has been held that a co operative bank is a banking company under Section 2(1)(d) of the SARFAESI Act and a bank under Section 2(1)(c) thereof. In light of this authoritative pronouncement, the Petitioner submits that since a co operative bank falls within the definition of a banking company under Section 5(c) of the Banking Regulation Act, it necessarily falls within Section 2(e) of the RDB Act and is therefore a bank under Section 2(d) of the RDB Act. As a result, a co operative bank is fully entitled to invoke Section 17 of the RDB Act and approach the Debts Recovery Tribunal for recovery of its dues.

B. Bar on jurisdiction of the Co operative Court under Section 91 of the MCS Act.

10. The Petitioner submits that a co operative bank cannot invoke the jurisdiction of the Co operative Court under Section 91 of the MCS Act for recovery of debts.

11. The first submission is that upon enactment of the RDB Act, Section 91 of the MCS Act ceases to operate insofar as it relates to recovery of debts by co operative banks. To that extent, the provision suffers from lack of legislative competence. Without prejudice to the above, even assuming that Section 91 continues to exist on the statute book, Section 18 of the RDB Act expressly bars the jurisdiction of all other courts and authorities in respect of matters covered by Section 17. The Co operative Court exercising jurisdiction under Section 91 is squarely covered by this bar. The

RDB Act is a central legislation enacted under Entry 45 of List I of the Seventh Schedule, which deals with banking. This position has been affirmed by the Supreme Court in *Union of India v. Delhi High Court Bar Association*, (2002) 4 SCC 275 and reiterated in *Pandurang Ganpati Chaugule*. In contrast, the MCS Act is a State legislation enacted under Entry 32 of List II, which governs incorporation, regulation and winding up of co operative societies. In *Greater Bombay*, the Supreme Court had held that cooperative societies incidentally carrying on banking activity continued to fall within Entry 32 of List II. However, this view no longer holds the field. The Constitution Bench in *Pandurang Ganpati Chaugule* has clearly held that the banking activity of co operative banks, including recovery of dues, falls within Entry 45 of List I. Parliament is therefore competent to legislate on the recovery mechanism of co operative banks. The argument that such recovery falls exclusively within State legislative competence was expressly rejected. The Court further held that recovery of dues is an essential and integral part of banking. Matters such as incorporation, regulation and winding up alone remain within Entry 32 of List II. Recovery of debts does not.

12. Accordingly, once Parliament has enacted the RDB Act governing recovery of debts by banks including co operative banks, the State legislature lacks competence to provide a parallel recovery mechanism under Section 91 of the MCS Act. The Petitioner places reliance on the decisions in *UCO Bank v. Dipak Debbarma*(2017) 2 SCC 585, *Fatehchand Himmatlal v. State of Maharashtra*,(1977) 2 SCC 670 and *Nedumpilli Finance Co. Ltd. v.*

State of Kerala(2022) 7 SCC 394. To the extent Section 91 of the MCS Act purports to permit recovery proceedings by co operative banks, it becomes inoperative and unenforceable, as the field stands occupied by central legislation enacted under Entry 45 of List I. Article 246 of the Constitution further fortifies this position. In the event of any overlap between Parliamentary legislation under List I and State legislation under List II, the law enacted by Parliament prevails. This principle has been settled in *Union of India v. H.S. Dhillon (1971) 2 SCC 779* and reaffirmed in *State of West Bengal v. Kesoram Industries (2004) 10 SCC 201*.

13. Any interpretation permitting co operative banks to proceed under Section 91 would amount to sustaining a provision which is constitutionally infirm insofar as recovery of bank dues is concerned. Even otherwise, Section 18 of the RDB Act creates an express statutory bar. Once a matter falls within Section 17, no other court or authority can exercise jurisdiction. Therefore, even if Section 91 is assumed to survive, the Co operative Court is denuded of jurisdiction by operation of Section 18. The Petitioner further submits that although both the RDB Act and the MCS Act contain non obstante clauses, the RDB Act must prevail. It is a special statute governing recovery of debts due to banks. Special law prevails over general law. *Gujarat State Civil Supplies Corpn. Ltd. v. Mahakali Foods (P) Ltd., (2023) 6 SCC 401*. Even if both are treated as special statutes, the later enactment prevails over the earlier one. *Vodafone Idea Cellular Ltd. v. Ajay Kumar Agarwal, (2022) 6 SCC 496*

C. Incorrectness of *Viren Foods* and *Supreme Agro Trade*.

14. The Petitioner submits that this Court has rightly declined to follow the decisions in *Viren Foods and Beverages Pvt. Ltd. v. State of Maharashtra*, dated 11 April 2022 passed in Writ Petition No. 691 of 2022 and *Supreme Agro Trade v. State of Maharashtra*, dated 9 February 2024 in Writ Petition No. 2188 of 2022. *Viren Foods* was decided in the context of the SARFAESI Act, which does not contain a provision analogous to Section 18 of the RDB Act. The absence of a jurisdictional bar in SARFAESI materially distinguishes that decision. *Supreme Agro Trade* proceeds on the premise that a co operative bank is not a banking company under Section 5(c) of the Banking Regulation Act. This reasoning directly contradicts the Constitution Bench ruling in *Pandurang Ganpati Chaugule*. To that extent, *Supreme Agro Trade* does not lay down correct law.

15. In view of the above submissions, the Petitioner submits that the Co operative Court lacks jurisdiction to entertain recovery proceedings instituted by co operative banks. This position is consistent with the Full Bench decision of this Court in *Narendra Kantilal Shah v. Joint Registrar*, (2004) 1 Mah LJ 704 which held that Section 18 of the RDB Act bars proceedings under Section 91 of the MCS Act. Though that decision was earlier overruled in Greater Bombay, the foundation of Greater Bombay Co-operative Bank Ltd. now stands removed by the Constitution Bench in *Pandurang Ganpati Chaugule*.

Respondent's Submissions:

16. The Respondent submits that the decision in Washim Urban is founded upon the judgment of the Supreme Court rendered by a Constitution Bench in *Pandurang Ganpati Chaugule v. Vishwasrao Patil Murgud Sahakari Bank Ltd.*, reported in (2020) 9 SCC 215, decided on 5 May 2020. It is submitted that according to the reasoning adopted by *Washim Urban*, the decision in *Pandurang Ganpati Chaugule* has overruled the earlier judgment of the Supreme Court in *Greater Bombay Cooperative Bank Ltd.*, which had held that the provisions of the RDB Act were not applicable to cooperative banks. The Respondent submits that it is in this background that the Petitioner has filed the present review petition contending that the Cooperative Court was a forum non iudice and lacked jurisdiction to entertain the dispute application filed by Respondent No.1, and therefore seeks review and setting aside of the judgment dated 11 November 2025. The Respondent submits that the decision in *Washim Urban* proceeds on the premise that the judgment in *Greater Bombay Co-operative Bank Ltd.* stands overruled by the subsequent Constitution Bench decision in *Pandurang*. It is further assumed therein that the Supreme Court in *Pandurang Ganpati Chaugule* has held that a cooperative bank falls within the definition of a bank under the RDB Act. On this reasoning, the Nagpur Bench has concluded that Cooperative Courts have no jurisdiction to entertain recovery proceedings above Rupees Ten Lakhs and that such proceedings lie exclusively before the Debts Recovery Tribunal. The Respondent submits that the scope of the decision in *Pandurang Ganpati Chaugule* has been

misconstrued. The Supreme Court in *Pandurang Ganpati Chaugule* was dealing with a challenge to the constitutional validity of the SARFAESI Amendment Act, 2012 and the Notification dated 28 January 2003 issued under Section 2(1)(c)(v) of the SARFAESI Act, whereby cooperative banks and multi state cooperative banks were brought within the definition of bank for the purposes of the SARFAESI Act.

17. The issues framed and considered by the Supreme Court in *Pandurang Ganpati Chaugule* were limited. They related to the extent of legislative competence under Entry 45 of List I and Entry 32 of List II of the Seventh Schedule, the meaning of the expression banking company under Section 5(c) of the Banking Regulation Act, and the applicability of the SARFAESI Act to cooperative banks and multi state cooperative banks. While upholding the validity of the 2013 Amendment and the 2003 Notification, the Supreme Court held that in respect of banking activity, cooperative banks are governed by legislation relatable to Entry 45 of List I. At the same time, matters relating to incorporation, regulation and winding up continue to be governed by State legislation under Entry 32 of List II. The Court further held that cooperative banks fall within the meaning of banking company under the Banking Regulation Act and are therefore banks for the purposes of the SARFAESI Act. The Respondent submits that the judgment in *Pandurang Ganpati Chaugule* was rendered after the Ninety Seventh Constitutional Amendment inserting Part IX B into the Constitution. The Supreme Court relied upon the scheme of Part IX B, including Article 243 ZL, while

examining legislative competence in the context of SARFAESI.

18. The Respondent submits that the decision in *Greater Bombay Cooperative Bank Ltd.* was rendered prior to the 2013 amendment to the RDB Act, by which multi state cooperative banks were specifically included within the definition of bank under Section 2(d). At the relevant time, neither cooperative banks nor multi state cooperative banks were expressly included within the RDB Act. It is in that statutory backdrop that Greater Bombay Co-operative Bank Ltd. was decided. The Respondent submits that the issue in *Greater Bombay Cooperative Bank Ltd.* was confined to the applicability of the RDB Act to cooperative banks and the competence of the State legislature under Entry 32 of List II to legislate in respect of cooperative banks carrying on banking business. In that context, the Supreme Court held that the RDB Act did not apply to cooperative banks and that the State legislature was competent to enact laws governing them.

19. The Respondent submits that the decision in *Washim Urban* suffers from serious infirmities. The *Washim Urban* has proceeded on the assumption that the definitions of bank under the SARFAESI Act and the RDB Act are identical. This assumption is incorrect. The definition under the SARFAESI Act includes cooperative banks by virtue of a specific notification issued under Section 2(1)(c)(v). The definition under the RDB Act does not include cooperative banks and includes only multi state cooperative banks.

20. The Respondent submits that the *Washim Urban* failed to notice that while cooperative banks were expressly included within

SARFAESI by the 2003 Notification, no corresponding inclusion was made under the RDB Act. It is further submitted that the *Washim Urban* has erroneously inferred that *Pandurang Ganpati Chaugule* holds cooperative banks to be banks under the RDB Act. There is no finding, observation or declaration to that effect in *Pandurang Ganpati Chaugule* . The Supreme Court was not concerned with the interpretation of the term bank under the RDB Act.

21. The Respondent places reliance on the decision of the Supreme Court in *Secunderabad Club v. Commissioner of Income Tax*,(2023) SCC OnLine SC 1004 wherein it has been held that only the ratio decidendi of a judgment is binding, that stray observations do not constitute precedent, and that a decision cannot be treated as law declared unless the issue was directly considered and decided. The Respondent submits that *Pandurang Ganpati Chaugule* is confined to the applicability of the SARFAESI Act to cooperative banks. It does not declare that cooperative banks fall within the definition of bank under the RDB Act or that Debts Recovery Tribunals have exclusive jurisdiction over recovery proceedings above Rupees Ten Lakhs. The application of *Pandurang Ganpati Chaugule* to the facts in *Washim Urban* is therefore legally unsustainable.

22. The Respondent further submits that the *Washim Urban* has summarily concluded that *Greater Bombay Cooperative Bank Ltd.* stands overruled without undertaking any reconciliation of the two judgments. A judgment cannot be treated as overruled by implication unless there is a clear and irreconcilable conflict on the

same issue.

23. On a harmonious reading, the Respondent submits that both decisions can coexist. *Pandurang Ganpati Chaugule* departs from *Greater Bombay Co-operative Bank Ltd.* only to the extent of recognising that cooperative banks are engaged in banking activity and fall within the meaning of banking company under the Banking Regulation Act. It does not deal with, nor overrule, the conclusions in *Greater Bombay Co-operative Bank Ltd.* regarding the inapplicability of the RDB Act.

24. The Respondent submits that *Pandurang Ganpati Chaugule* does not lay down any proposition that cooperative banks are banks under the RDB Act or that Debts Recovery Tribunals have exclusive jurisdiction in recovery matters exceeding Rupees Ten Lakhs.

25. Lastly, the Respondent submits that the *Washim Urban* has failed to consider the effect of the subsequent Constitution Bench decision in *Union of India v. Rajendra N. Shah, reported in (2022) 19 SCC 520*, whereby the Ninety Seventh Constitutional Amendment was struck down insofar as it applied to cooperative societies.

26. The Respondent submits that the judgment in *Pandurang Ganpati Chaugule* relied upon Part IX B of the Constitution, including Article 243 ZL, while examining legislative competence. The striking down of Part IX B in *Rajendra N. Shah* materially alters the constitutional foundation on which *Pandurang Ganpati Chaugule* was decided. This vital aspect was not considered in

Washim Urban.

Legal Framework:

27. Before analysing the arguments, it is useful to make reference to the relevant statutory provisions and constitutional entries:

28. Section 91 Confers jurisdiction on Co-operative Courts to try “all disputes or suits regarding the business of the co-operative society” between, inter alia, the society and its members. It thus empowers the State forum to hear loan-recovery disputes when a cooperative bank (as a society) sues its members.

29. Section 17 vests exclusive jurisdiction in the DRT for suits or applications by a “bank” to recover debts due to it. Section 18 bars the jurisdiction of “every Court or any authority” in relation to matters covered by Section 17, once a DRT has been constituted and the debt exceeds the threshold. Section 1(4) of the RDB Act limits its application to debts of ₹10 lakh or more (unless the Central Government raises that limit). Section 34(1) gives the RDB Act an overriding effect over other laws.

30. Section 2(1)(d) defines “banking company” as in Section 5(c) of the Banking Regulation Act, 1949. Section 2(1)(e) defines “bank” to mean “banking company”. Under Section 5(c) (pre-amendment), “banking company” included certain co-operative institutions incorporated as companies, but excluded co-operative societies. Section 56(a) of the BR Act treated State co-operative banks as banking companies once Central assistance was received, but this provision was largely rendered moot by 1975 amendments

(indeed Section 56 was omitted in 1993). In short, the statutory text was not crystal clear on co-op banks.

31. Co-operative societies fall under Entry 32, List II (State List). “Banking” and “recovery of debts” fall under Entry 45, List I (Union List). Entry 43C (by 97th Amendment) and Part IX-B (now struck down) also pertained to co-operatives.

32. State law (MCS Act) creates a remedy and forum for co-op societies, while central law (RDB Act) provides an alternate debt-recovery mechanism under Union entry 45. Under the pith and substance doctrine, it must be determined which law prevails on its true subject-matter.

ANALYSIS

Applicability of RDB Act to Co-operative Banks:

33. The first issue is whether a co-operative bank can be treated as a “bank” under the RDB Act. In *Pandurang Ganpati Chaugule* the Supreme Court clearly held that a co-operative bank which carries on banking business is a “banking company” within the meaning of Section 5(c) of the Banking Regulation Act, read with Section 56. On that basis, it was held to be a “bank” under the SARFAESI Act. The Court also made it clear that banking business includes recovery of money and that such activity falls under Entry 45 of List I of the Constitution. For this reason, the Court upheld the application of the SARFAESI Act to co-operative banks through statutory amendments and notifications.

34. It is true that *Pandurang Ganpati Chaugule* was concerned with the SARFAESI Act. However, the Court noted that the definitions of “bank” and “banking company” under the SARFAESI Act are the same as those found in the RDB Act. If that reasoning is applied in the same manner, a co-operative bank would also qualify as a “bank” under the RDB Act. This is the approach adopted in the *Washim Urban* judgment. That judgment treated *Pandurang Ganpati Chaugule* as a clear declaration that co-operative banks fall within the meaning of “banking company” and “bank” even for the purposes of the RDB Act. On that basis, it was held that Section 17 of the RDB Act gives jurisdiction to the Debts Recovery Tribunal for recovery claims by co-operative banks, and that Section 18 bars all other forums.

35. The respondent is correct in pointing out that the Supreme Court in *Pandurang Ganpati Chaugule* did not directly state that the RDB Act applies to co-operative banks. The Constitution Bench was answering a specific question, namely whether Parliament had the power to extend the SARFAESI Act to co-operative banks under Entry 45 of List I. That said, by rejecting a narrow understanding of the word “bank” and by holding that co-operative banks are engaged in full-fledged banking, the Court indirectly accepted that the expression “bank” in central banking laws is wide enough to cover co-operative banks.

36. In contrast, the earlier decision in *Greater Bombay Co-operative Bank Ltd.* had taken a different view. That judgment held that the RDBFI Act, now known as the RDB Act, did not apply to co-operative banks. The Court reached this conclusion by closely

reading the statutory provisions. It noted that Section 5(c) of the Banking Regulation Act, which is referred to in the RDB Act, did not include co-operative banks. It also observed that Parliament had consciously not amended the RDB Act to include co-operative banks, and that Section 56 of the Banking Regulation Act had only a limited role.

37. Paragraph 120 of *Pandurang Ganpati Chaugule* shows that the Constitution Bench has openly disagreed with the reasoning adopted in *Greater Bombay Co-operative Bank Ltd.* decided in 2007. The Court points out that in *Greater Bombay*, the provisions of the Banking Regulation Act, particularly Section 56, were not examined in detail. It also notes that the main question before the Court at that time was whether recovery proceedings should be filed before the Debts Recovery Tribunal or before the Co-operative Court. The Constitution Bench clearly states that it cannot agree with the conclusions reached in *Greater Bombay Co-operative Bank Ltd.* because the statutory provisions were not properly understood or applied. It is important to see what the Supreme Court was considering at this stage. The Constitution Bench was rejecting the basic assumption made in *Greater Bombay Co-operative Bank Ltd.* that co-operative banks are not mainly engaged in banking and therefore fall outside the central banking system. The Court clearly holds that banking is not a side activity for co-operative banks. It is their principal and only business. This finding directly weakens the foundation on which *Greater Bombay Co-operative Bank Ltd.* was decided. At the same time, the Court does not clearly say that the RDB Act applies to co-operative

banks. What it does is remove the basic reasoning used in *Greater Bombay Co-operative Bank Ltd.* to keep co-operative banks outside central banking laws.

38. Paragraph 121 takes the reasoning further. The Court rejects the view accepted in *Greater Bombay Co-operative Bank Ltd.* that since State Co-operative Acts already provide a complete system for recovery, Parliament cannot make laws in that area. The Constitution Bench makes it clear that recovery of bank dues is an essential part of banking. Banking squarely falls under Entry 45 of List I. Therefore, Parliament's power to make laws on recovery cannot be denied merely because State law also provides a remedy. The Court then deals with another important argument raised in *Greater Bombay Co-operative Bank Ltd.* It was argued there that Parliament never amended Section 5(c) of the Banking Regulation Act to include co-operative banks. The Constitution Bench holds that this argument is incorrect. Parliament extended the Banking Regulation Act to co-operative banks through Section 56 and by introducing an entire chapter applicable to them. The Court makes it clear that these wide amendments cannot be ignored or treated as meaningless. The most important part of paragraph 121 is the Court's observation that if co-operative banks are kept outside the Banking Regulation Act and other laws made under Entry 45, they would not even be able to carry on banking business. Without compliance with licensing and regulatory provisions under the Banking Regulation Act, banking activity itself would become impossible. This shows that co-operative banks necessarily function within the central banking framework.

39. Paragraph 122 completes the chain of reasoning. The Court holds that co-operative banks clearly satisfy the definition of “banking” under Section 5(b) of the Banking Regulation Act. Co-operative banks accept deposits. They allow withdrawals. They give loans. The fact that loans are given mainly to members does not take them outside banking. They perform commercial banking functions and, therefore, fall under Entry 45 of List I.

40. What *Pandurang Ganpati Chaugule* clearly and finally decides can be stated as follows. First, co-operative banks are mainly and genuinely engaged in banking activities. Second, banking includes recovery of money, and this entire field falls under Entry 45 of List I of the Constitution. Third, Parliament has full authority to make laws relating to banking and recovery of bank dues, even when such laws affect co-operative banks. Fourth, the earlier reasoning in *Greater Bombay Co-operative Bank Ltd.* which treated co-operative banks as standing outside the central banking framework is incorrect.

41. The judgment in *Greater Bombay Co-operative Bank Ltd. v. United Yarn Tex Pvt. Ltd.* was based on a combination of constitutional principles, interpretation of statutory provisions, and the overall scheme of the laws involved. To assess how far that judgment still holds good after *Pandurang Ganpati Chaugule*, it is necessary to identify the main reasons on which *Greater Bombay Co-operative Bank Ltd.* was decided and then examine how each of those reasons stands after the later Constitution Bench decision.

42. First, the Supreme Court in *Greater Bombay Co-operative Bank Ltd.* proceeded on the basic assumption that co-operative banks do not fall within the definition of a “banking company” under Section 5(c) of the Banking Regulation Act, 1949. Since this definition is adopted by the RDB Act, the Court held that the RDB Act did not apply to co-operative banks. The Court further held that Section 56 of the Banking Regulation Act, which applies certain provisions of that Act to co-operative societies, does not convert co-operative banks into banking companies for all purposes. This understanding of the statute formed the central reason for excluding co-operative banks from the RDB Act. This position has now been largely unsettled by *Pandurang Ganpati Chaugule*. The Constitution Bench clearly disagreed with the manner in which Section 56 was understood in *Greater Bombay*. It held that the application of the Banking Regulation Act to co-operative banks through Section 56 is substantial and meaningful. According to *Pandurang Ganpati Chaugule*, co-operative banks carry on banking as their main and exclusive activity, and the extensive regulatory amendments made by Parliament cannot be ignored. To this extent, the assumption in *Greater Bombay Co-operative Bank Ltd.* that co-operative banks lie outside the central banking system has been clearly rejected.

43. Second, *Greater Bombay Co-operative Bank Ltd.* relied heavily on principles of constitutional federalism. The Court held that co-operative societies fall under Entry 32 of List II and that State Legislatures have full power to regulate them, including providing complete recovery mechanisms. It reasoned that since

State co-operative laws already had self-contained recovery systems, Parliament did not intend to enter this field through the RDB Act. On this basis, the Court held that the jurisdiction of Co-operative Courts under Section 91 of the MCS Act remained untouched. This reasoning has also been weakened by *Pandurang Ganpati Chaugule*. The Constitution Bench held that banking, including recovery of dues, squarely falls under Entry 45 of List I. It clarified that recovery is not a side or incidental matter but an essential part of banking itself. The Court further held that the existence of State recovery mechanisms cannot prevent Parliament from legislating on banking, even if such legislation incidentally affects State powers. To this extent, the federal balance reasoning adopted in *Greater Bombay Co-operative Bank Ltd.* no longer carries the same weight.

44. Third, *Greater Bombay Co-operative Bank Ltd.* placed strong emphasis on legislative intent. The Court noted that Parliament had consciously omitted co-operative banks from the RDB Act and the SARFAESI Act when they were first enacted. This omission was treated as decisive. The Court reasoned that if Parliament intended to cover co-operative banks, it would have expressly said so. This reasoning strongly supported the conclusion that remedies under the RDB Act were not available to co-operative banks. This aspect is only partly addressed in *Pandurang Ganpati Chaugule*. The Constitution Bench held that Parliament does have the power to include co-operative banks within central banking laws and that such inclusion was validly carried out in the context of the SARFAESI Act through amendments and notifications. However,

the Court did not examine the RDB Act in detail. It did not decide whether Parliament has actually exercised this power under the RDB Act so as to clearly and expressly include State co-operative banks. Therefore, while the assumption in *Greater Bombay Co-operative Bank Ltd.* that Parliament lacked constitutional power is rejected, the separate question of actual inclusion under the RDB Act remains unanswered.

45. Fourth, the decision in *Greater Bombay Co-operative Bank Ltd.* was delivered after the Supreme Court carefully examined the scheme, purpose, and background of the RDB Act. The Court did not decide the case on technicalities. Instead, it relied on multiple connected reasons to conclude that the RDB Act does not apply to disputes between co-operative banks and their members, and that such disputes should continue under State co-operative laws. The Court gave significant importance to the objects and reasons of the RDB Act. It noted that Parliament enacted the RDB Act to address a specific problem faced by public sector banks and financial institutions, which were forced to file recovery suits in overburdened civil courts, leading to long delays. The Statement of Objects and Reasons referred to more than fifteen lakh pending cases and to the recommendations of the Tiwari Committee and the Narasimham Committee, both of which stressed the need for special tribunals to ensure speedy recovery. From this, the Court concluded that the RDB Act was meant to transfer bank recovery cases from civil courts to DRTs. It was not intended to interfere with recovery mechanisms already functioning under State co-operative laws. The Court also emphasised that disputes between

co-operative banks and their members were already being effectively handled under State Co-operative Societies Acts. Parliament was aware of this system and chose not to disturb it. The Court reasoned that shifting co-operative disputes to DRTs would overburden those tribunals and defeat the very purpose of speedy recovery. On this basis, it held that the RDB Act and State co-operative laws operate in different spheres. The Court further examined Section 31 of the RDB Act and held that the term “court” refers only to civil courts. It clarified that Registrars, arbitrators, and Co-operative Courts under State laws are not civil courts. This showed that proceedings before co-operative authorities were never intended to be transferred to DRTs. The Court also observed that despite being aware of co-operative banks, Parliament had not amended the RDB Act to expressly include them. This omission was treated as deliberate. All these factors together led the Supreme Court in *Greater Bombay Co-operative Bank Ltd.* to hold that the RDB Act does not apply to co-operative banks.

46. However, *Pandurang Ganpati Chaugule* does not clearly interpret Sections 17 and 18 of the RDB Act. It does not expressly state that recovery proceedings by co-operative banks must be filed only before the Debts Recovery Tribunal. It also does not clearly declare that Co-operative Courts under Section 91 of the MCS Act lose their jurisdiction. The Constitution Bench was mainly concerned with the validity and applicability of the SARFAESI Act. Its criticism of *Greater Bombay Co-operative Bank Ltd.* is based on constitutional understanding and statutory interpretation. While it removes the conceptual basis of *Greater Bombay*, it stops short of

clearly declaring that the RDB Act overrides State co-operative recovery laws.

47. In short, *Pandurang Ganpati Chaugule* does not finally resolve the conflict between the RDB Act and Section 91 of the MCS Act. It does, however, tilt the legal balance strongly in favour of central authority over banking and recovery. This makes the issue significant and in need of a final and authoritative decision.

48. It is this legal position that creates the present difficulty. The foundation of *Greater Bombay Co-operative Bank Ltd.* has been shaken, but its final conclusion has not been expressly overruled. The reasoning based on the objects and reasons of the RDB Act, the analysis of recovery forums, and the deliberate legislative omission continues to support its conclusion unless Parliament's intention under the RDB Act is clearly clarified. This unresolved situation explains why the issue remains open and why authoritative determination by a larger Bench is required.

RDB Act vis-a-vis MCSAct:

49. To understand whether recovery proceedings by a co-operative bank should go before the Debts Recovery Tribunal or the Co-operative Court, it is necessary to read the relevant provisions of both laws together.

50. First, under the RDB Act, Section 2(d) defines the word "bank". It includes banking companies, nationalised banks, State Bank of India, subsidiary banks, regional rural banks, and importantly, multi-State co-operative banks. Section 2(e) then says that the meaning of "banking company" shall be the same as given

in Section 5(c) of the Banking Regulation Act. This shows that the RDB Act applies only to those institutions which strictly fall within this definition.

51. Next comes Section 17 of the RDB Act. This provision gives exclusive power to the Debts Recovery Tribunal to decide applications filed by banks and financial institutions for recovery of debts. If a bank covered by the RDB Act wants to recover its money, it must approach the DRT.

52. Section 18 of the RDB Act strengthens this position. It clearly states that once the Tribunal is established, no other court or authority can exercise jurisdiction in matters which fall under Section 17. The only exceptions are the Supreme Court and the High Court under Articles 226 and 227 of the Constitution. This section is meant to prevent parallel proceedings and ensure that recovery cases are decided only by the DRT.

53. However, Section 18 also contains an important proviso. It says that recovery proceedings of multi-State co-operative banks which were already pending under the Multi-State Co-operative Societies Act before the 2013 amendment shall continue. This shows that Parliament was conscious of co-operative recovery mechanisms and made specific saving provisions only for multi-State co-operative banks.

54. Section 31 of the RDB Act deals with transfer of pending cases. It provides that any suit or recovery proceeding which could have been filed before the DRT, had the Tribunal existed at that time, shall stand transferred to the Tribunal. Once again, a special

exception is carved out for recovery proceedings of multi-State co-operative banks pending under the Multi-State Co-operative Societies Act. This shows that Parliament consciously dealt with multi-State co-operative banks, but did not expressly deal with State co-operative banks.

55. Section 34 of the RDB Act gives the Act overriding effect. It states that the RDB Act will prevail over any other law if there is inconsistency. At the same time, sub-section (2) clarifies that the RDB Act is in addition to certain specified financial laws. This shows that the overriding effect operates only when there is a clear conflict.

56. Now, turning to the MCS Act, Section 91 is the heart of the co-operative dispute resolution system. It mandates that any dispute touching the business of a society, including recovery of debts due from members, must be referred to the Co-operative Court. The provision begins with a non-obstante clause, meaning it applies notwithstanding anything contained in any other law.

57. Section 91 also makes it clear that claims by a society for recovery of dues from members are “disputes” and must be decided by the Co-operative Court. Section 91(3) further bars the jurisdiction of civil courts in respect of such disputes. This shows that the legislature intended the Co-operative Court to be a specialised forum for resolving such matters.

58. Section 163 of the MCS Act reinforces this position. It expressly bars the jurisdiction of civil and revenue courts in matters which are required to be decided under the Act, including

disputes under Section 91. It also declares that orders passed under the Act are final and cannot be questioned in ordinary courts.

59. When these provisions are read together, the position becomes clear. Under the MCS Act, a co-operative bank, being a co-operative society, is entitled to recover its dues from members by approaching the Co-operative Court under Section 91. This is a self-contained mechanism created by State law. Under the RDB Act, only those institutions which strictly fall within the definition of “bank” can invoke the jurisdiction of the DRT. Parliament has expressly included multi-State co-operative banks in the RDB Act. However, State co-operative banks are not expressly mentioned.

60. Sections 18 and 31 of the RDB Act show that Parliament was careful in carving out exceptions and savings only in respect of multi-State co-operative banks. There is no similar express provision dealing with State co-operative banks governed by the MCS Act. Therefore, unless it is clearly established that a State co-operative bank falls within the definition of “bank” under Section 2(d) read with Section 2(e) of the RDB Act, the bar under Section 18 cannot automatically apply to proceedings under Section 91 of the MCS Act.

61. The RDB Act bars other courts only when the matter is one which the DRT is legally empowered to decide. If the co-operative bank itself does not fall within the RDB Act, the bar under Section 18 does not get attracted. Thus, the conflict between the two laws does not arise merely because both provide recovery mechanisms.

A real conflict arises only if the same bank is clearly governed by both statutes. In the absence of an express inclusion of State co-operative banks in the RDB Act, Section 91 of the MCS Act continues to operate in its own field.

Definitions under the RDB Act, the SARFAESI Act, and the Banking Regulation Act:

62. The submission that once a co-operative bank is treated as a “banking company” under Section 5(c) of the Banking Regulation Act it must automatically be treated as a “bank” under the RDB Act, and therefore entitled to approach the DRT under Section 17, has to be tested carefully in the light of the principle of *statutes in pari materia* and the surrounding statutory scheme. At a first glance, the argument appears attractive. Section 2(e) of the RDB Act adopts the meaning of “banking company” from Section 5(c) of the Banking Regulation Act. Section 2(d) of the RDB Act then includes a “banking company” within the definition of “bank”. On this chain of definitions, it is argued that once *Pandurang Ganpati Chaugule* has held that a co-operative bank is a banking company under Section 5(c) read with Section 56 of the BR Act, the consequence must follow that it is also a “bank” under the RDB Act and can therefore invoke Section 17 before the DRT.

63. The doctrine of *pari materia* means that laws dealing with the same subject should, as far as possible, be read together. It well settled that when two statutes are part of the same legal system and aim to achieve a common purpose, the meaning given in one law can help in understanding similar words used in another law.

It is applied where two enactments operate in the same area and there is nothing in either law to suggest a different intention. At the same time, there is an equally settled limitation to this doctrine. Laws can be read together only when there is no clear indication to the contrary. The principle cannot be used to overlook conscious legislative choices, differences in structure, or express inclusions and exclusions made by Parliament. Courts cannot ignore what Parliament has deliberately done or deliberately not done. When this limitation is applied to the RDB Act, the difficulty with the submission becomes evident.

64. Although both the RDB Act and the SARFAESI Act take the definition of “banking company” from Section 5(c) of the Banking Regulation Act, Parliament has not treated co-operative banks in the same manner under both statutes. Under the SARFAESI Act, co-operative banks were specifically brought within its scope by notifications and amendments. Under the RDB Act, however, Parliament has expressly included only multi-State co-operative banks and has made special saving and transitional provisions for them in Sections 18 and 31. There is no similar express inclusion of State co-operative banks. If Parliament had intended that all co-operative banks should automatically be treated as “banks” under the RDB Act merely because Section 5(c) of the BR Act is adopted, there would have been no need to amend Section 2(d) to separately include multi-State co-operative banks, nor to insert special provisos preserving proceedings under the Multi-State Co-operative Societies Act. These selective amendments clearly show that Parliament consciously restricted the scope of the RDB Act.

Therefore, even though the RDB Act and the SARFAESI Act both deal with bank recovery and broadly operate in the same field, they do not form a single or uniform code. They are related statutes, but their reach is not identical. The doctrine of *pari materia* cannot be used to remove this distinction. Further, jurisdiction does not arise merely from definitions. The Supreme Court has consistently held that definitions only explain meaning. They do not, by themselves, confer jurisdiction. Jurisdiction under the RDB Act flows from Section 17, read in the light of the purpose and scheme of the Act. In *Greater Bombay*, the Supreme Court examined this legislative intent in detail and held that the RDB Act was enacted to shift bank recovery cases away from ordinary civil courts, not to displace specialised recovery forums already functioning under State co-operative laws. This conclusion was based not only on definitions, but on the Statement of Objects and Reasons, the structure of the Act, and the limited scope of the transfer provision under Section 31.

65. The decision in *Pandurang Ganpati Chaugule* undoubtedly changes the constitutional understanding of co-operative banks. It settles that co-operative banks carry on banking as their principal activity and that Parliament has legislative competence under Entry 45 to enact laws relating to banking and recovery. To that extent, it weakens the conceptual foundation of *Greater Bombay*. However, *Pandurang Ganpati Chaugule* does not apply the doctrine of *pari materia* to hold that definitions under the SARFAESI Act automatically extend the RDB Act to State co-operative banks. It does not examine Sections 17 or 31 of the RDB

Act, nor does it hold that Parliament has actually exercised its competence to that extent under the RDB Act. The doctrine of *pari materia* helps courts understand meaning. It does not permit courts to rewrite one statute so as to make it identical to another. The argument that a “banking company” under the BR Act must necessarily be treated as a “bank” under the RDB Act overlooks the fact that Parliament itself has drawn clear distinctions within the RDB Act. Where Parliament has spoken expressly, courts cannot supply omissions by analogy.

66. Therefore, the submission carries considerable persuasive value. It supports the view that co-operative banks cannot be treated as standing outside the concept of banking under central law. However, it does not conclusively establish that State co-operative banks have an automatic right to invoke Section 17 of the RDB Act, nor that the jurisdiction of Co-operative Courts under Section 91 of the MCS Act stands automatically excluded. Such a conclusion would require a clear and express legislative declaration, which is presently absent. This is why the argument, though strong, cannot be treated as final and why the issue continues to require authoritative determination.

67. However, when this argument is examined in the light of the statutory scheme, some important points arise for consideration.

68. First, although both Acts borrow the same definition from Section 5(c) of the Banking Regulation Act, Parliament has treated co-operative banks differently in the two statutes. Under the SARFAESI Act, Parliament expressly brought co-operative banks

within the fold of the Act through notifications and amendments. There is a clear legislative step showing intention to apply SARFAESI to co-operative banks. In contrast, under the RDB Act, Parliament has expressly included only multi-State co-operative banks by amendment. There is no similar express inclusion of State co-operative banks. This distinction cannot be ignored, because it shows that Parliament was aware of co-operative banks and chose to include them expressly where it intended to do so.

69. Second, *Pandurang Ganpati Chaugule* dealt directly with the SARFAESI Act. The Supreme Court held that co-operative banks fall within the concept of banking and that Parliament was competent to extend SARFAESI to them. While the Court explained the meaning of “banking” and “banking company” with reference to the Banking Regulation Act, it did so in the context of validating SARFAESI. The Court did not examine whether Parliament had, in fact, extended the RDB Act to State co-operative banks.

70. Third, it is also important to understand that definitions alone do not decide which court or tribunal will have jurisdiction. Even when two different laws use the same definition, their actual scope depends on how Parliament has chosen to apply that definition in each law. A definition only explains the meaning of a word. It does not, by itself, decide where a case must be filed or which forum has the power to decide it. This becomes clear when one looks at the structure of the RDB Act. Parliament has not applied the definition of “bank” in a uniform or automatic manner to all kinds of co-operative banks. Instead, it has made specific and careful choices. This is evident from the special provisos and

saving clauses found in Sections 18 and 31 of the RDB Act. Both these provisions expressly refer only to multi-State co-operative banks. They protect pending recovery proceedings of such banks under the Multi-State Co-operative Societies Act and allow them to continue even after the RDB Act amendments. There is no similar protection or reference made for State co-operative banks governed by State co-operative laws. This selective treatment shows that Parliament was fully aware of the different categories of co-operative banks. Where it intended the RDB Act to apply, it said so clearly. Where it did not intend such application, it remained silent. Such silence can indicate a conscious legislative choice. Therefore, the presence of these limited provisos strongly suggests that Parliament deliberately included only multi-State co-operative banks within the RDB framework, while leaving State co-operative banks to continue under their respective State laws. This reinforces the position that jurisdiction under the RDB Act cannot be expanded merely by relying on definitions, without clear legislative intent expressed in the statute itself.

71. Therefore, the argument based on identical definitions is attractive but not conclusive. It supports the view that co-operative banks can conceptually fall within central banking laws. At the same time, it does not automatically lead to the conclusion that State co-operative banks are fully governed by the RDB Act in the same manner as they are governed by the SARFAESI Act. In the present facts, this argument supports the Petitioners case that co-operative banks are not outside the idea of “banking” under central law. However, it does not, by itself, settle the further

question whether Parliament has actually applied the RDB Act so as to take away the jurisdiction of Co-operative Courts under Section 91 of the MCS Act. That question still depends on legislative intent and on how Sections 17, 18, and the specific inclusions under the RDB Act are to be interpreted.

Pith and Substance and Legislative Competence:

72. The petitioner has relied on the doctrine of pith and substance to submit that, in reality, recovery of bank dues is part of banking activity and therefore falls under Entry 45 of List I, which is within the exclusive domain of Parliament. According to the petitioner, Section 91 of the MCS Act is a State law dealing with co-operative societies under Entry 32 of List II. It can operate only in so far as it does not encroach upon the field occupied by central banking laws. The petitioner argues that repayment of loans by members is not merely a co-operative matter but is essentially a banking activity. For this reason, Section 91 can support recovery only so long as it does not conflict with central legislation. In support of this submission, reliance is placed on *Pandurang Ganpati chougule*, where the Supreme Court observed that the business of banking carried on by co-operative banks is governed by Entry 45 of List I, and that recovery of dues forms part of that banking business.

73. The respondents, on the other hand, contend that the jurisdiction of the Co-operative Court under Section 91 is, in its true nature, a State subject. They submit that Section 91 is a part of the State's power to regulate co-operative societies under Entry

32 of List II and that it provides a valid forum for resolving disputes within the co-operative framework. They point out that while banking as such falls under the Union List, the broader management and functioning of co-operative societies have traditionally remained within the State List. According to them, nothing in the Constitution completely removes this State power. The respondents also draw attention to the fact that Part IX-B of the Constitution, introduced by the Ninety-Seventh Amendment to bring uniformity in co-operative laws across the country, has been struck down by the Supreme Court. As a result, the constitutional position has reverted to what it was earlier. Co-operative societies, except to the extent they carry on banking, remain largely within the control of the States. While *Pandurang Ganpati Chaugule* did hold that recovery of bank dues is linked to Entry 45, the respondents argue that in the absence of an express provision including State co-operative banks in the RDB Act, Parliament cannot be said to have completely taken away the State remedy under Section 91 merely by implication.

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 co-operative 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.

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 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.

78. The review petition shall remain pending until the reference made to the larger Bench is finally decided. The review petition shall thereafter be taken up for final disposal and shall be decided in accordance with the law laid down by the larger Bench on the question referred.

79. A copy of this judgment shall be forwarded to the Registry forthwith for compliance.

(AMIT BORKAR, J.)