

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.130 OF 2015

Bhudargad Taluka Shetkari Sahakar
Sangh Ltd.

.. Petitioners

*-Versus-*The District Deputy Registrar
Cooperative Societies & Ors.

.. Respondents

Mr.Tanaji Mhatugade for petitioners
Mr.A.R.Metkari, AGP for State.

CORAM : R.G.KETKAR, J.

DATE : 17th October 2015.

P.C.

1] Heard Mr. Mhatugade learned Counsel for the petitioner and Mr. Metkari, learned A.G.P. at length.

2] By this review petition under section 114 read with Order 47 of Civil Procedure Code, 1908 the petitioner has sought review of order dated 21st August 2015 passed by this Court in Writ Petition No.8420 of 2015. By that order, the petitioners' challenge to the order dated 5th August 2015 passed by the District Deputy Registrar of Coop.Societies and District Election Officer, Kolhapur directing

the petitioner to include names of 23066 individual members and 467 institutional members in final voters' list, was upheld and the petition was dismissed.

3] In support of this review petition, Mr. Mhatugade submitted that in para 3 of the order dated 21st August 2015, this Court recorded submissions based on rule 8 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 (for short Rules) as also the decision of this Court in case of Dhondiba Parshuram Lakade Vs. Someshwar Sahakari Sakhar Karkhana **1979 Mh.L.J. 311**. The Division Bench in that case construed Rule 6 of the Maharashtra Specified Cooperative Societies (Election to Committee) Rules, 1971. It was observed that Rule 6 of Maharashtra Specified Cooperative Societies (Election to Committee) Rules, 1971 is pari materia with Rule 8 of Rules, 2014.

4] Para 40 of that decision was extracted in para 4. The submissions based on Rule 6(1) were recorded. It was further observed that respondent No.1 directed the petitioner to include names of 23066 individual members and 467 institutional members

in the final voter's list on the ground that written notice was not given to these members. The petitioner had submitted that they had issued public notice on 14th December 2014 in daily "Mahasatta", which is widely circulated daily newspaper in the locality, where its members are ordinarily residing. After considering this submission in para 6, section 26 of Maharashtra Cooperative Societies Act, 1960 was extracted. In particular 2nd proviso thereto requires giving of individual notices to the members and giving them reasonable period to comply with the said notice.

5] In the present case, by-law 3 was amended and face value of individual member was increased to Rs.200 from Rs.25/- and face value of institutional member was increased to Rs.2000/- from Rs.100/- and members were called upon to pay remaining balance amount on or before 31st March 2014. In para 7 it was observed that no material was produced on record to indicate that as per 2nd proviso to section 26 notices were issued to the institutional as also individual members, calling upon them to comply with the requisition of the notice by paying deficit amount of shares. In view thereof, it was observed that respondent No.1 did not commit any error in

directing the petitioner to include the names of 23066 individual members and 467 institutional members. Mr.Mhatugade submitted that the submissions recorded in paragraph 4 of the order dated 21st August 2015 were not dealt with and that is the error apparent on the face of record. It is not possible to accept this submission. As noted earlier, the names of 23066 individual members and 467 institutional members were deleted on the ground of non payment of deficit amount of share. The petition was dismissed on the ground of non compliance of 2nd proviso of section 26 of the Act. In view thereof, no case is made for reviewing the order dated 21st August 2015.

6] In the case of Kamlesh Verma Vs. Mayawati, reported in A.I.R. 2013 S.C. 3301 the Supreme Court has observed thus:-

“ that the jurisdiction and scope of review is not that of an appeal and it can be entertained only if there is an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning can hardly be said to be an error apparent on the face of the record justifying the Court

to exercise its power of review. A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected, but lies only for patent error. Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correction of a mistake but not to substitute a view.

7] Hence, the review petition fails and the same is dismissed as such.

(R.G.KETKAR, J.)