

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2388 OF 2014

Kanhaiyalal N. Joshi .. Petitioner

vs.

Divisional Dy. Registrar,
Cooperative Societies Mumbai
Division, Mumbai & ors. .. Respondents

WITH

CIVIL APPLICATION NO. 2393 OF 2015

IN

WRIT PETITION NO. 2388 OF 2014

Hajarilal Y. Gupta and ors. .. Applicants/Intervenors

In the matter between

Kanhaiyalal N. Joshi .. Petitioner

vs.

Divisional Dy. Registrar,
Cooperative Societies Mumbai
Division, Mumbai & ors. .. Respondents

Mr. Owen Menezes i/b Mr. R. S. Tripathi for the Petitioner.
Mr. P.S. Dani, Sr. Advocate a/w. Mr. Atul Singh for Respondent No.4.
Ms. M.S. Bane, B-Panel Counsel for State – Respondent Nos.1,2, & 5.
Mr. Vishal Kanade i/b Mr. A.S. Singh for the Applicants-Intervenors
in CAW 2393 of 2015.

CORAM : M. S. SONAK, J.

DATE : 11 SEPTEMBER 2015.

P.C. :-

1] Mr. Menezes, the learned counsel for the petitioner, makes a statement that respondent No.3 Society has been duly served with Rule in this petition. This statement is made on the basis of instructions and further Mr. Menezes has handed-in registered acknowledgement slips evidencing such service. The same are taken on record.

2] Rule was issued on 15 November 2014. Thereafter on 24 August 2015, directions were issued to list this petition on 8 September 2015 and the parties were put to notice that the petition will be disposed of finally on the said date. The petition has, however, come up today for final disposal.

3] The challenge in this petition is to the order dated 10 October 2013 made by the Minister (Cooperative) in purported exercise of revisional jurisdiction under Section 154 of the Maharashtra Cooperative Societies Act, 1960 (said Act).

4] The revision petition was instituted by respondent No.4 before the Minister (Cooperative) to impugn the judgment and order dated 23 August 2013 made by the Divisional Joint Registrar Cooperative Societies, Mumbai, again, in the exercise of revisional jurisdiction under Section 154 of the said Act.

5] The Full Bench of this Court in case of *Shireen Sami Gadiali and anr Vs. Spenta Co-op. Hsg. Soc. Ltd. & ors.*¹, in the precise context of the provisions contained in Section 154 of the said Act has held that a decision taken in the revisional jurisdiction cannot be

1 2011 (3) Mh.L.J. 486

subjected to a further revision, unless there is a specific provision made in that regard. The Full Bench in paragraphs 8 to 10, after discussing the legal position has finally observed as under:

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9.

10.*In our opinion, therefore, in view of the clear scheme of section 152 and section 154 and the observations of the Supreme Court referred to above, the position is absolutely clear that an order passed in exercise of the revisional jurisdiction under section 154 cannot be subjected to scrutiny in exercise of revisional jurisdiction again under the provision of section 154 of the Act. The question is, therefore, answered accordingly.”*

6] In view of the aforesaid, revision petition was clearly not maintainable before the State Government and the order dated 10 October 2013 made by the State Government in the purported exercise of revisional jurisdiction, is clearly in excess of jurisdiction. The Minister (Cooperative) has purported to exercise jurisdiction when none was vested in him. On this short ground, the impugned order dated 10 October 2013 is required to be set aside and is hereby set aside.

7] Accordingly, the impugned order dated 10 October 2013 is set aside. In the facts and circumstances of the present case, there shall be no order as to costs.

8] Since Writ Petition No. 2388 of 2014 itself is disposed of, Civil Application No. 2393 of 2015, by which the applicants seeking intervention in the matter in order to support the cause of the petitioner is not pressed and is therefore, disposed of.

(M. S. SONAK, J.)

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CERTIFICATE

**“Certified to be true and correct copy of
original signed Judgment/Order.”**