

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (STAMP) NO.7552 OF 2015

Mr. P K. Kumar

.. Petitioner

Versus

The Divisional Joint Registrar

Co-operative Societies and another

.. Respondents

Shri. Uday P Warunjikar, for the Petitioner.

Shri. S. D. Rayrikar, AGP for the Respondent Nos.1 & 2.

CORAM : R.M. SAVANT, J.

DATE : 25th MARCH, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 26.02.2015 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai, by which order the Revision Application filed by the Petitioner being No.238 of 2013 came to be dismissed. The said Revision Application was filed challenging the order dated 29.11.2012 passed by the Deputy Registrar, Co-operative Societies K/W Ward, Mumbai under Section 83 of the Maharashtra Co-operative Societies Act, 1960 directing an inquiry. The said inquiry is an inquiry into the alleged financial irregularities that have taken place during the tenure of the earlier managing committee. The power under

Section 83 can be exercised on a request made by 1/3 members of the society or suo-moto by the Registrar. In so far as the present case is concerned, an application dated 14.08.2012 was addressed by the Secretary of the society named Brighton Tower Housing Society to the Deputy Registrar to initiate an inquiry under Section 83 and 88 of the said Act. The said letter carries a footnote which stated that the annexed pages have signatures of more than 1/3 society members requesting the said inquiry. The annexed pages are about seven in number, wherein the flat numbers are beginning from 101A and ending with flat 1907A and the signatures have been shown by the side of each flat. It seems that thereafter an application was made on 10.09.2012 by the Secretary for a re-audit of the accounts of the financial year i.e. preceding eight years which was mentioned in the said letter. To the said letter also a list of the signatures of members was annexed.

2 . It is the contention of the Learned Counsel appearing for the Petitioner that the said list which was annexed to the letter dated 10.09.2012 has been utilized for the letter dated 14.08.2012. The second submission of the Learned Counsel is that without verifying the number of members who have signed the said letter dated 14.08.2012 the authority has entertained the application filed for an inquiry under Section 83 and initiated the said inquiry. In my view, it is not possible to accept the said

contentions of the Learned Counsel for the Petitioner. Firstly, what has been done is that the Deputy Registrar has passed an order directing an inquiry to be conducted under Section 83 in respect of the alleged financial irregularities committed by the erstwhile managing committee. There is no order passed by the Deputy Registrar which can be therefore, said to be prejudicial to the Petitioner or the ex-committee members at this stage. It is the contention of the Learned AGP that what has been directed is only an inquiry under Section 83 and therefore the question arises whether such an order could be challenged. Be that as it may, the contention of the Learned Counsel for the Petitioner that signatures of the members appearing which were used for application dated 10.09.2012 have been utilized for the application dated 14.08.2012 cannot be accepted as the said application dated 10.09.2012 is later in point of time to the application dated 14.08.2012. In so far as whether the signatures can be said to be of 1/3 members of the society is concerned, the authority i.e. Deputy Registrar has concluded that the signatures are of 98 members out of 240 and therefore, constitute 1/3 of the members. It is also required to be noted that the Registrar, Co-operative Societies can suo-moto also institute an inquiry, if he finds that the allegation of financial irregularities is required to be inquired into. In the instant case, as indicated above, allegations are made by the present committee that financial irregularities

have been committed by the erstwhile committee. In my view, therefore, the order passed by the Divisional Joint Registrar, Co-operative Societies rejecting the Revision Application does not warrant any interdiction at the hands of this Court in its Writ Jurisdiction. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]