

dgm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 4783 OF 2014

Ajay Shantilal Raka and ors. Petitioners
vs
Dr. Vithal Kashinath Yavalekar & ors. Respondents

Ms. Aarti P. Bhide for the Petitioners
Mr. Harshad M. Inamdar for the Respondent No.1.
Mr. Kishor S. Patil for Respondent No.2.
Mr. S.D. Rayrikar, AGP for Respondents 3 and 4.

CORAM: ANOOP V. MOHTA, J.

DATE : March 10, 2015

P.C.:

Rule. Rule is made returnable forthwith. Heard finally by consent of parties.

2 The Petitioners, who are present Directors of Respondent No.2-Bank have challenged order dated 15.04.2014 passed by the Revisional Authority-Respondent No.4 under Section 154 of Maharashtra Cooperative societies Act, 1960 (MCS Act) and thereby allowing the Appeal of Respondent No.1-original complainant and

also of Director of Respondent No.2-Bank, and thereby order dated 15.01.2013 passed by Respondent No.3-Divisional Joint Registrar, Nasik, remanding the matter back for fresh inquiry as contemplated under Section 88 of MCS Act was set aside.

3 Normally, there is no question to interfere with the order of remand, but the Revisional Authority in the matter, without assigning and/or giving specific reason has set aside the order of remand and allowed the Appeal. The basic contention and the reasons of remand was non-compliance of procedure so contemplated under Rule 72 of Maharashtra Cooperative Societies Rules (MCS Rules) which provides the basic procedure to be followed by all concerned, including the inquiry officer, so that an appropriate finding can be arrived at, holding the respective person/persons responsible for the alleged irregularity and/or defaults and so also for proper assessment to arrive at the figure/amount for the stated damages and/or compensation. The procedure, if not followed and the basic Authority therefore remanded the matter back, the Revisional Authority ought to have been given sufficient reason to reverse the order. Those reasons are missing. Therefore, considering the scope and power of Revisional Authority and for want of reason so

recorded above, I see there is a case made out by the Petitioner to interfere with the order. By keeping all points open, therefore, I am inclined to pass the following order accordingly.

ORDER

- (i) Impugned order dated 15.04.2014 is quashed and set aside.
- (ii) Appeal No. 498/2003 is restored to file.
- (iii) The Revisional Authority to rehear the parties and pass order by giving opportunity to all the concerned in accordance with law.
- (iv) Both the learned counsel for the parties submitted that they will appear before the Revisional Authority on 30.03.2015 for direction/order.
- (v) The Appeal to be disposed of as early as possible and preferably within four months.
- (vi) The writ petition is allowed accordingly.
- (vii) Rule made absolute accordingly.
- (viii) No costs.

(ANOOP V. MOHTA, J.)