

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8220 OF 2013

Hemraj Ramkisan Agarwal	}	
and Anr.	}	Petitioners
versus		
The State of Maharashtra	}	
and Ors.	}	Respondents

WITH
WRIT PETITION NO. 5257 OF 2014

Mr. Kantilal Dhanpatrai Jain	}	
and Anr.	}	Petitioners
versus		
Shree Agrasen Maharaj	}	
Nagari Sahakari Patsanstha	}	
Maryadit and Ors.	}	Respondents

Mr. Drupad S. Patil for the Petitioners in
WP/8220/2013.

Mr. P. G. Sawant - AGP for Respondent
Nos. 1 to 3.

Ms. Tejasweeta Bhosale i/b. Bansal
Chorbele Law Chambers for Respondent
No. 5 in WP/8220/2013.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATED :- DECEMBER 16, 2015

P.C. :-

The Petitioners are complaining by these Petitions
that the competent authority has failed to assess and recover the
damages by taking recourse to sections 83 and 88 of the
Maharashtra Co-operative Societies Act, 1960.

2) The Petitioners state that the second Respondent is an officer of the State and exercises various powers and discharges obligations under the Maharashtra Co-operative Societies Act, 1960. He can appoint an inquiry officer to conduct the inquiry under section 83 of the Act. The fourth Respondent is such inquiry officer appointed and the complaint is that the Petitioners, who are members of Respondent No. 5 Credit Society have deposited amounts with the same. They ought to have been invested, but the Petitioners complain that in any event on maturity of the deposits, the sums should have been returned with accrued interest. The sums have not been returned and the failure and neglecting to return the same led to the filing of complaints, firstly with the police and later on with the Registrar of the Co-operative Societies. However, beyond appointing an inquiry officer and directing him to submit a report within two months from 29th November, 2012, nothing further has been done. This Court, on hearing the parties on 26th October, 2015, passed an order and a compliance affidavit was to be filed within four weeks.

3) The District Deputy Registrar has filed an affidavit on behalf of Respondent Nos. 1 to 3, in which, it is stated that the inquiry officer filed his report on 8th December, 2015. Thereafter, actions in pursuance of this report have to be initiated and our

attention is invited to further provisions ending with section 88. Now, in terms of the report furnished and submitted, the steps would be taken and it is stated that sub-section (1) of section 88, particularly its proviso states that proceedings under this sub-section shall be completed by the authorised person within a period of two years from the date of passing of the order by the Registrar. The affidavit filed today obviously contains a misleading statement. It is common ground that the fourth Respondent was appointed on 29th November, 2012. He was given two months' time to submit a report. Once the report was received and the further action in terms of section was to be initiated and completed, then, the period of two years has expired long time back. In fact, the initial report itself was not submitted within two months from 29th November, 2012. The Divisional Joint Registrar ought to have therefore initiated steps and called upon the inquiry officer to furnish an explanation to him. There is, therefore, a total inaction amounting to negligence on the part of these authorities. The affidavit which has been filed now states that the inquiry officer will take necessary steps and pass a final order within 60 days from the date of hearing.

4) This, once again is an incorrect and false assurance, inasmuch as after notices were issued to 18 persons on 4th

October, 2014, the gentleman does not indicate as to when the hearing was held. He is obviously referring to some hearing prior to a report. He is yet to frame the charges according to para 5 of the affidavit.

5) In these circumstances, ordinarily we would have been justified in summoning the Divisional Joint Registrar, District Deputy Registrar and the Inquiry Officer to this Court and seeking an explanation as to how their acts comply with the directions of this Court and the statutory mandate. But, that would only result in further time being wasted. In these circumstances, we direct that the fourth Respondent shall hear the parties within a period of 15 days from today and thereafter pass his final orders in terms of sub-section (1) of section 88 within three months from the date of completion of the hearing. On no occasion he shall adjourn the hearing beyond a period of 15 days in the event of any difficulty by the parties. Meaning thereby, if he is unable to conclude the hearing within 15 days, then, he shall conclude it in any event within a period of 30 days from today. He shall pass the final orders and in any event within a period of three months from the date the hearing as above is concluded by him. We will not grant any extension of time. In the event the officer seek extension and the Divisional Joint

Registrar desires to assist him, we shall take very serious view of their conduct and any such application if dismissed would visit them with costs and adverse remarks. They would be entered in their confidential reports.

6) With the aforesaid directions, the Writ Petitions are disposed of. Our order and directions does not mean that the officers must not abide by the provisions of law. Name of Petitioner No. 2 in Writ Petition No. 8220 of 2013 stands deleted since it is reported that he has expired.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)