

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8740 OF 2015

Mohit Bhardwaj & ors .. Petitioners

vs.

State of Maharashtra & ors. .. Respondents

WITH

CIVIL APPLICATION NO. 2972 OF 2015

IN

WRIT PETITION NO. 8740 OF 2015

Thuppil S. Natrajan .. Applicant.

In the matter between

Mohit Bhardwaj & ors .. Petitioners

vs.

State of Maharashtra & ors. .. Respondents

WITH

CIVIL APPLICATION NO. 2973 OF 2015

IN

WRIT PETITION NO. 8740 OF 2015

Vikas Oberoi .. Applicant.

In the matter between

Mohit Bhardwaj & ors .. Petitioners

vs.

State of Maharashtra & ors. .. Respondents

Mr. Mohit Bhardwaj, Petitioner in person.

Mr. S.D. Rayrikar, AGP for Respondent Nos.1,3,4 and 5.

Mr. Shreepad Murthy i/b Abhishek Patil for Respondent No.2.

Mr. A.S. Desai for Respondent No.8.

Mr. Paresh More i/b S.U. Pandey for the Applicant-Intervener in CA 2972/15.

Mr.Pravin Samdani, Sr. Advocate a/w. Mr. Pratik Sakseria and Mr.Mayur Khandeparkar i/b I.C. Legal for the Applicant in C.A. 2973/15.

CORAM : M. S. SONAK, J.

DATE : 16 NOVEMBER 2015.

P.C. :-

1] The challenge in this petition is to the orders dated 18 April 2015 made by the Divisional Joint Registrar, Cooperative Societies, dismissing the Appeal Nos.127 of 2013 and 234 of 2013.

2] Both the orders are relatable to the exercise of powers under Section 152 of the Maharashtra Cooperative Societies Act, 1960 (said Act). Section 154 of the said Act provides that the State Government or the Registrar, *suo moto* or on an application may call for and examine the record of any inquiry or proceedings of any matter other than those referred to in sub-section (9) of section 149, wherein any decision or order has been passed by any subordinate officer, and no appeal lies against such decision or order, for the purpose of satisfying themselves as to the legality and propriety of any such decision or order, and as to the regularity of such proceedings. If in any case, it appears to the State Government, or the Registrar, that any decision or order so called for should be modified, annulled or reversed, the State Government or the Registrar, as the case may be, may, after giving the person affected thereby an opportunity of being heard, pass such orders thereon as to it or him may seem just. Sub-section (2) of Section 154 of the said

Act provides that revision shall lie to the State Government if the decision or order is passed by the Registrar, the Additional Registrar or a Joint Registrar, and to the Registrar if passed by any other officer.

3] From the aforesaid, it is quite clear that as against the impugned orders, the remedy of revision as prescribed under Section 154 of the said Act is very much available. There is accordingly, no reason to entertain the present petition for want of availability of alternate statutory remedy available to the Petitioner.

4] Mr. Mohit Bhardwaj, the Petitioner who appears in person, however submitted that the revisional powers were already invoked on the previous occasion and therefore, it would be futile to require the Petitioner to once again challenge the impugned orders before the Revisional Authority. Mr.Bhardwaj also placed reliance upon the decision of this Court in case of *Madhukar B. Deshmukh Vs. Jalgaon Jillha Maratha Vidya Prasarak Cooperative Samaj Ltd. - 2002(3) Mh.L.J. 201* to contend that the revisional jurisdiction having once exercised by one authority under Section 154 of the said Act, cannot be exercised once again by the State Government by

resort to the provisions contained in Section 154 of the said Act.

5] There is no merit in the contention Mr. Bhardwaj. In this case, by order dated 28 May 2013 Oberoi Splendors Complex C.H.S. Ltd. was granted registration. The same was challenged by institution of Appeals. In fact the appeals were allowed and registration was cancelled by order dated 11 March 2014. One Vikas Oberoi, who seeks to intervene in the present case, instituted revision petition under Section 154 of the said Act, questioning the order dated 11 March 2014. The revision was allowed and the order dated 11 March 2014 was set aside and the matter was remanded to the appellate authority for fresh consideration. It is in pursuance of the remand order that the appellate authority has made the impugned orders.

6] From the aforesaid narration of events, it is quite clear that the revisional authority has not had occasion to examine the legality and propriety of the orders dated 18 April 2015, now impugned in this petition. Therefore, it would not be a case of requiring the revisional authority to exercise its revisional jurisdiction twice over in respect of the same orders. The reference to decision in case of

Madhukar B. Deshmukh(*supra*) is quite misplaced. In the said case, the revisional powers had once been exercised by the revisional authority and the attempt was to institute yet another revision tot he State Government as against the revisional order. Such is not the issue involved in the present case. At the stage, when the revision petition instituted by Vikas Oberoi was decided, the impugned orders dated 18 April 2015 were not even in existence. Clearly, therefore, alternate remedy by way of revision is available agaিসnt the orders dated 18 April 2015.

7] Since the present petition is not being entertained, it is not necessary to make any orders in Civil Application Nos. 2972 of 2015 and 2973 of 2015, by which the applicants therein, seek intervention. The two Civil Applications are therefore disposed of.

8] However, it is clarified that since this petition is not being entertained only on the ground of availability of alternate and efficacious remedy, all contentions of all parties, including contentions as regards *locus standi* etc., are specifically kept open. The revisional authority, in case revision is instituted by the

Petitioner against the impugned orders, to examine all such issues and contentions in accordance with law and on their own merits.

9] The petition and the civil applications are disposed of in the aforesaid terms. There shall be no order as to costs.

(M. S. SONAK, J.)

dinesh