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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 1516 OF 1998

Shri Subhash Baburao Kul & ors. Petitioners

vs

The Divisional Commissioner and ors Respondents

None for the Petitioners

Mr. S.D. Rayrikar, AGP for the Respondents 1, 3 and 5.

CORAM: ANOOP V. MOHTA, J.

DATE : February 02, 2015

P.C.:

The Petitioners have invoked Article 226 of the Constitution of India and thereby challenged the order passed under Section 77-A and 78 of the Maharashtra Cooperative Societies Act 1960 read with Rule 64 of the Maharashtra Cooperative Societies Rules, 1961 (for short, Act of 1960) of the year 1998.

2 This Court, after hearing both the parties, on 24.03.1998 while admitting the matter granted stay in terms of prayer (b) and (a-2) thereby stayed order dated 21.03.1998 and so also order dated

23.3.1998 by which directions were issued to hand over the charge of the Bhima Sahakari Sakhar Karkhana Ltd (Karkhana) back to the Petitioners. Respondent No.2 was also directed to hand back the charge to the Petitioners.

3 This Court, though requested, not stayed the said order. It appears that the said order has been in force till this date. Some of the Respondents are not yet served. The situation is that the order of the year 1998 remained intact till this date. No society and/or Karkhana could do without fresh election and/or related proceedings which is the mandate of Maharashtra Cooperative Societies Act. Therefore, by this time, there must have been fresh election and the new body must have taken charge. Therefore, there is no point keeping this petition pending for want of service to some of the Respondents with such stay order. This will frustrate the whole objection of the Cooperative Societies Act and the Rules framed thereunder specifically by keeping this petition pending. Therefore, by keeping all points open, the order so passed as remained intact and no case is made out and no steps taken out by the Respondents to vacate the said order. The further steps must have been taken by the parties for the managing the affairs of the society/karkhana, I am inclined to

dispose of the present writ petition by holding that it has become infructuous with liberty. All points kept open. Rule discharged. No costs.

(ANOOP V. MOHTA, J.)