

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 7496 OF 2005**

Mrs. Rukaiya Nisar Qureshi

....Petitioner.

Vs.

Shaheen Apartments Co-oprative

Housing Society Ltd. & Ors.

....Respondents.

Mr. Satish Kamat i/by Mr. S.M. Kazi for the Petitioner.

None for the Respondents.

CORAM:- ANOOP V. MOHTA, J.

DATE :- 13 MARCH 2015.

P.C:-

Taken out from the final hearing board.

Heard finally.

2 None for the Society, though served and matter listed for final hearing on many occasions. The Petitioner's averments of the year 2005 remained uncontroverted till this date, including the positive statement referring to the amount spent by the Petitioner towards the repairing of the flat in question, as the Society, inspite of repeated communication, failed to do so. The amount spent for repairing is about Rs.4,12,000/-. This amount, according to the Petitioner is recoverable from the Society. The claim of the Society against the Petitioner to the tune of Rs.92,000/-, required to be

adjusted.

3 The Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai, however, without considering those facts, by impugned order dated 30 August 2005, rejected even the Revision Application filed by the Petitioner, thereby overlook the factual aspects so referred above. This, in my view, is an error apparent on face of record. The order so passed, therefore, required to be quashed and set aside, being illegal and contrary to the record. Therefore, by keeping all points open, I am inclined to pass the following order of remand by directing that the amount so deposited by the Petitioner in this Court, be transferred along with accrued interest, if any, in the account of Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai and the same shall be adjusted by passing appropriate order, including refund, if any, with interest.

4 Resultantly, the following order:-

ORDER

- a) Impugned order dated 30 August 2005 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai is quashed and

set aside.

- b) Revision Application No. 298 of 2005 is restored to the file of Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai.
- c) The Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai to decide the same, as early as, possible and preferably within 10 weeks from the receipt of the copy of this order.
- d) The amount so deposited in this Court by the Petitioner be transferred along with accrued interest, if any, in the account of Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai and the Authority to pass appropriate order in accordance with law.
- e) All the contentions are kept open.
- f) The Petition is allowed.
- g) Rule made absolute accordingly.
- h) There shall be no order as to costs.

(ANOOP V. MOHTA, J.)