

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10473 OF 2014

Vinod Kumar and ors. .. Petitioners
vs.
State Government of Maharashtra and ors. .. Respondents

Mr. A.G. Pandit for the Petitioner.
Ms M.S. Bane, B-Panel Counsel for Respondent Nos.1 and 2.
Mr. B.B. Sharma for Respondent No.3.
Mr. Gaurav Parkar for Respondent No.4.

CORAM : M. S. SONAK, J.
DATE : 7 DECEMBER 2015.

P.C. :-

1] This petition seeks to challenge the letters dated 2 January 2014 and 21 January 2014, by which the Joint Registrar Cooperative Societies has purported to dispose of the Petitioners' application seeking bifurcation of the society by resort to Section 18 of the Maharashtra Cooperative Societies Act, 1960 (said Act).

2] As against an order or decision made under the Section 18 of the said Act, an appeal is provided to the prescribed authorities under Section 152 of the said Act. The learned counsel for the Petitioners, however, contends that the two letters can neither be styled as orders nor it can be said that the same constitute decisions under Section 18 of the said Act. The learned counsel for the Petitioners states that the Joint Registrar has refused to consider the Petitioners' application under Section 18 of the said Act and such refusal is bereft of any reasons. In these circumstances, learned counsel for the Petitioners submits that there is no question of relegating the Petitioners to avail alternate remedy under Section

152 of the said Act or for that matter the remedy of revision under Section 154 of the said Act.

3] If the letter dated 2 January 2014 is perused, it is clear that the Joint Registrar has taken a decision to file the Petitioner's application, which in other words means that the Petitioners' 'plea for bifurcation of the society has not been accepted. It cannot be said that the letter contains no reasons whatsoever. The question as to whether such reasons are sufficient or whether the same are legal and valid, is a question which can always be decided by the appellate authority. After the receipt of letter dated 2 January 2014, the Petitioners addressed yet another communication to the Joint Registrar by his advocate's letter dated 8 January 2104. In the said representation, the Petitioners requested for a specific order. The Joint Registrar by his response dated 21 January 2014, has clearly held that '*prima-facie it is not proper to make such bifurcation*'. This is followed by some reasons. Again, at this stage, we are not concerned whether such reasons are legal and valid or not.

4] From the aforesaid, it cannot be said that two communications which have been impugned in this petition are neither orders nor decisions, against which the statutory remedy is available under the said Act, cannot be availed. Accordingly, there is no necessity to entertain the present petition. However, the Petitioners shall be at liberty to avail the alternate statutory remedies available under the provisions of said Act. In case, the Petitioners avail of the same within a period of four weeks from today, then the Authorities to consider the explanation for delay, if any, on the basis

that the Petitioners have been *bonafide* pursuing the present petition.

5] With the aforesaid observations, this petition dismissed. There shall however, be no order as to costs.

6] It is made clear that this Court has not adjudicated upon the merits of the contentions of respective parties and therefore, all contentions of all parties are kept open to be decided by the statutory authorities, in case the Petitioners avails the statutory remedies under the said Act.

(M. S. SONAK, J.)

dinesh