

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11051 OF 2014

Shri. P. Prasanna Kumar and anr. .. Petitioners
vs.
State of Maharashtra and ors. .. Respondents

Dhanashree T. , B.N. Poojari for the Petitioners.
Mr. S.D. Rayrikar, AGP for Respondent Nos.1 and 2.

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

P.C. :-

1] The challenge in this petition is to the order dated 6 December 2013 made by the Deputy Registrar, Cooperative Societies, Thane in purported exercise of powers conferred by Section 79(2) of the Maharashtra Cooperative Societies Act 1960 (said Act).

2] As against an order under Section 79 of the said Act, an appeal is provided under Section 152 of the said Act to the Authorities specified. The learned counsel for the Petitioners, however, contends that the Petitioners had not been made parties before the Deputy Registrar, when the Deputy Registrar made the impugned order. Accordingly, the learned counsel for the Petitioners contends that in such a situation, the Petitioners may not be entitled to institute an appeal under Section 152 of the said Act.

3] Upon perusal of the provisions contained in Section 152 of the said Act, it cannot be said, as a matter of blanket proposition, that an appeal cannot ever be instituted by the persons, who were not

parties to the proceedings, wherein the impugned order came to be made. In a given case, the parties, who are affected by the impugned order, can, after obtaining leave of the appellate authority institute an appeal and such appeal will have to be entertained by the appellate authority. In this case, the Petitioners contends that they are the ones who are affected by the impugned order and that the Deputy Registrar ought not to have made the impugned order without they being added a parties. If this be the position, it cannot be said that the Petitioners are not entitled to seek leave to institute an appeal before the appellate authority. If appropriate case is made out, the appellate authority will grant leave and entertain the appeal.

4] Accordingly, no case is made out to entertain this petition. However, the Petitioners shall be at liberty to avail the alternate remedy by satisfying the appellate authority that they are indeed aggrieved by the impugned orders and that the impugned order affects their rights and interest. In case, such proceedings are taken out by the Petitioners within a period of four weeks from today, the appellate authority to take into consideration the period spent by the Petitioners before this Court, as the period spent *bonafide*.

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

6] It is clarified that this Court has not examined the merits of the matter and therefore, all contentions of all parties are kept open for adjudication by the statutory authorities, in case, the Petitioners avail of the statutory remedies under the said Act.

(M. S. SONAK, J.)