

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7217 OF 2014

Ashok B. Gore .. Petitioner
vs.
Nivruti S. Patil & ors. .. Respondents

WITH

CIVIL APPLICATION NO. 2875 OF 2014
Datattraya D. Mohite and ors. ..Applicants

In the matter between
Ashok B. Gore .. Petitioner
vs.
Nivruti S. Patil & ors. .. Respondents

Mr. Akshay Shinde for the Petitioner.
Mr. R.S. Ghadge i/b A.S. Desai for Respondent Nos.1 to 12.
Mr. S.D. Rayrikar, AGP for Respondent Nos.10 and 13.
Mr. Vaibhav Gaikwad for the Applicants in CAW 2875/14.

CORAM : M. S. SONAK, J.
DATE : 14 JANUARY, 2015

P.C. :-

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] This petition takes exception to the order dated 23 July 2014 made by the Minister (Cooperation)-respondent No.10 allowing revision application preferred by respondent Nos.1 to 7 in the matter of their supersession as Board of Directors of respondent No.12 society.

3] Perusal of the impugned judgment and order would indicate that the contentions raised by the petitioner, on whose complaint the

order of supersession came to be made, have not at all been considered. The submissions made by and on behalf of respondent Nos.1 to 7, as reflected at page 52 of the paper book (internal page 2 of the impugned order) have been verbatim reproduced as conclusions at page 53 and 54 (internal pages 3 and 4 of the impugned order). This is indicative of non-application of mind. There is no discussion whatsoever in the impugned order as to why the contentions of the petitioner have not been accepted and as to why the submissions made by and on behalf of respondent Nos.1 to 7 have been accepted, not just in their totality, but also in the verbatim words and language employed by the said respondents. In such circumstances, there is no option but to set aside the impugned judgment and order.

4] Mr. Dattatray Mohite and others have filed an intervention application in the present petition. Their case is that they had also lodged complaints against the members of the Managing Committee on basis of which the order of supersession came to be made. It is their case that they ought to have been joined as parties in the revision petition by respondent Nos.1 to 7. There can be no hard and fast rule in this regard. Every complainant, as a matter of right cannot insist upon their joinder as party in proceedings, which are basically directed to question the action of statutory authorities superseding the Board of Directors and appointing an Administrator in their place. In the present case, the petitioner, who was also one of the complainant was admittedly made a party in the revision proceedings. However, rather than dilate on this issue, interest of justice would be served if the applicants in intervention application, i.e., Civil Application No. 2875 of 2014 are permitted to intervene in

the revision proceedings before the Minister (Cooperation) in the peculiar facts and circumstances of the present case. It is made clear, however, that seven intervenor applicants would be represented by only one advocate of their choice and there shall be no insistence that separate advocates be permitted to appear for each of them.

5] Accordingly, the impugned order dated 23 July 2014 is set aside.

6] Revision Petition is remanded to the Minister (Cooperation) for fresh consideration in accordance with law. Revision Application shall be disposed of expeditiously and in any case within a period of six months from the date of receipt of this order.

7] Notwithstanding, setting aside of impugned order dated 23 July 2014, it is made clear that pending the Revision Application before the Minister (Cooperation), there shall be a stay on the order of supersession and appointment of an Administrator. However, respondent Nos.1 to 7, in their capacity as members of the Board of Directors shall not take any major policy decision or decisions involving large financial stakes.

8] Parties agree to appear before the Secretary, Minister (Cooperation) on 21 January 2015, in order to obtain suitable date for prosecution of the Revision Application.

9] Rules is made absolute to the aforesaid extent. No order as to costs.

10] In view of aforesaid order, nothing survives in Civil Application and same is disposed of accordingly.

11] All parties to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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