

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 1045 OF 2016**

Shri Pandurang Tukaram Mali & Ors.

...Petitioners

VS.

The State of Maharashtra & Ors.

....Respondents

Mr.A.Y. Sakhare, Senior Advocate with Mr.Prashant S. Bhavake for Petitioners.

Mr.A.I. Patel, AGP for Respondent Nos.1 to 4.

Dr.Milind Sathe, Senior Advocate with Mr.H.S. Venegaonkar for Respondent No.5.

Mr.Amit B. Borkar for Respondent No.6.

CORAM : ANOOP V. MOHTA & S.C. GUPTE, JJ.**11 MARCH 2016****P.C. :**

Rule, returnable forthwith. By consent, we have heard this petition. A specific prayer is made in this petition against Respondents No.1 to 4 to appoint an administrator in view of Section 77A of the Maharashtra Co-operative Societies Act, 1960 read with Section 73(I). The grievance is that in the background of earlier orders dated 21 October 2015 in Writ Petition No.3654 of 2015 passed by this Court including holding of an inquiry, about membership of the society i.e. Respondent No.5, no inquiry is completed till this date.

2 Learned AGP, on instructions, makes a statement that it requires at least four weeks' more time to decide the membership issue, as directed to be decided by this Court.

3 The position of law, however, as submitted by Senior Counsel appearing for the Petitioner, is that irrespective of the pendency of such inquiry, the tenure of the earlier Managing Committee is over on 6 June 2015. Naturally, the consequence is that the managing committee cannot work any further as a committee under law. Learned Counsel appearing for Respondent No.5 society, however, resisted the said contention by referring to other provisions. At this

stage, we are not deciding this issue. We would instead keep all points open as the Petitioners have already filed an application dated 4 / 5 January 2016 addressed to Respondent Nos.1 to 4 to decide their similar prayers and consider the appointment of an administrator. Therefore, in the interest of justice, to avoid further complications, at this stage, we direct the concerned Respondent authority to decide representation dated 4 / 5 January 2016, as early as possible, and preferably within three weeks.

4 The Respondent society to file a reply to the representation within one week before the authority. The application to be disposed of thereafter within two weeks. The Petitioners are also permitted to file an additional affidavit and / or documents within one week and so also the Respondent society. Keeping all points open, the present writ petition is disposed of with this direction, in accordance with law.

5 The parties shall appear before Respondent No.4 on 16 March 2016 at 11 a.m. The concerned authorities to follow the next course of action in view of the direction so issued accordingly. No costs.

(S.C. GUPTE, J.)

(ANOOP V. MOHTA, J.)