

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1154 OF 2015

Shri Pushparaj C. Shetty & Ors.	... Petitioners
V/s.	
The Deputy Registrar,	
Co-Operative Societies & Ors.	... Respondents

Ms. Archana Khan for the petitioners.
Ms. Gauri Rao, A.G.P. for respondent Nos.1 to 3.
Mr. Uzair. Kazi a/w Mr. Sachin Magavkar & Mr. Niraj M., i/b M/s. Divya Shah Associates for respondent Nos.4 to 8 .

**CORAM : M.S. SONAK, J.
DATE : 17 JUNE, 2016.**

PC. :

1 This Petition is being disposed of in view of the availability of alternate remedy to the petitioners to challenge the impugned order.

2 As against the impugned order, the petitioners have remedy of an appeal in terms of Section 152 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to 'the said Act'). The learned counsel for the petitioners has submitted that since the facts of this case quite gross, the petitioners need not be relegated to avail the alternate remedy. Further, learned counsel for the petitioners invited my attention to the order dated 05.02.2015, in terms of which notice was issued for final disposal of this Petition and ad-interim relief was granted until the final disposal of this Petition.

3 The learned counsel for respondent Nos.4 to 8 has submitted that when the order dated 05.02.2015 was made, respondent Nos.4 to 8 had not been impleaded as parties to the Writ Petition.

4 In my judgment, it is not necessary to decide the rival contentions in this Petition. The petitioners, undoubtedly have an alternate, efficacious and statutory remedy of instituting an appeal against the impugned order in terms of Section 152 of the said Act. Accordingly, the petitioners can always be granted liberty to avail of such remedy, and further since the ad-interim relief is in operation from 05.02.2015, the same can always be continued even during the pendency of such Appeal and time bound directions can be issued to the Appellate Authority to dispose of the Appeal.

5 Taking into consideration the facts and circumstances of the present case, as also the contentions of both the contesting parties, in my judgment, it will be appropriate, if following course is adopted. Petition is accordingly disposed of with the following order :-

a) The Petition is not entertained on account of the petitioners having alternate remedy. However, the petitioners are granted liberty to institute an appeal under Section 152 of the said Act within a period of four weeks from today.

b) In case the Appeal is instituted within a period of four weeks from today, the Appellate Authority is directed to entertain the same and decide the same as

expeditiously as possible and in any case within a period of six months from the date of lodgment of the Appeal.

c) The Appeal as aforesaid, shall be decided on merits. The delay of institution of the Appeal shall be deemed to have been condoned. In fact the learned counsel for respondent Nos.4 to 8 has stated that the issue of limitation in so far as filing of the Appeal is concerned, will not be raised by the said respondents. Learned counsel has further clarified that the certain other issues in relation to limitation, which issue goes to the merits of the matter will however, be raised in the Appeal. Obviously, there can be no bar for raising of such issues. It is clarified that all contentions of all parties on merits are kept open.

6 The interim order granted by this Court shall operate for a period of four weeks from today. If within the said period, the petitioners institute an Appeal before the Appellate Authority, then the interim relief shall operate until the final disposal of the Appeal.

7 All concerned to act upon on the basis of the authenticated copy of this order.

(M.S. SONAK, J.)