

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12217 OF 2016**

**Suvarna Shankar Koktikar & Ors
Vs.**

..Petitioners

The State of Maharashtra & Ors

..Respondents

Mr. A. S. Patil for the Petitioners

Mrs. V. S. Nimbalkar AGP for the Respondent Nos.1 to 3

None for the Respondent Nos.4 and 5

CORAM : R. M. SAVANT, J.

DATE : 16th DECEMBER, 2016

P.C.

1 None appears for the Respondent Nos.4 and 5 though served.

2 The Writ Jurisdiction of this Court is invoked against the order dated 21-1-2016 passed by the Revisionary Authority i.e. the Hon'ble Minister for Co-operation, Marketing and Textile, Government of Maharashtra, by which order, the Revision Applications being Nos.815 to 844 of 2015 came to be allowed and resultantly the order dated 28-10-2015 passed by the Divisional Joint Registrar, Co-operative Societies, came to be set aside and as a consequence the Petitioners were held not to be entitled to be members of the Respondent No.5 society. The Respondent No.5 society is a Vikas Seva Sanstha operating in Village Mandholi, Post-Hativde, Tal- Ajara, Dist Kolhapur. The said society grants assistance to the villagers as well as agriculturist. The bye laws postulate that the eligibility for being a member of the Respondent No.5 is that person who has availed of loan and who own 10 Ares of land in village

Mendholi. On the ground that the Petitioners are not eligible to become members of the Respondent No.5 that an application came to be filed by the Respondent No.4 herein before the Assistant Registrar, Ajara. The said application came to be allowed by the Assistant Registrar by order dated 2-8-2014 and it was held that the Petitioners were not eligible to be members of the Respondent No.5 society as they were not complying with the bye laws of the said society.

3 The Petitioners aggrieved by the said order dated 2-8-2014 carried the matter by way of Appeals before the Divisional Joint Registrar by filing Appeal Nos.74 of 2014 to 106 of 2014. The Divisional Joint Registrar by his order dated 28-10-2015 has allowed the said Appeals and resultantly set aside the order dated 2-8-2014 passed by the Assistant Registrar in respect of Appendix-A. The gist of the reasoning of the Divisional Joint Registrar was that the Applicants were availing loan from the Respondent No.5 society. It was further held by the Divisional Joint Registrar that though in terms of bye laws a person who does not hold loan is disqualified for being a member of the Respondent No.5. However as per bye law No.4(14) there is no necessary to hold land if a person applies for membership to the society. As indicated above the Divisional Joint Registrar has by order dated 28-10-2015 allowed the Appeals. The Respondent No.4 herein aggrieved by the said order dated 28-10-2015 challenged the same by filing Revision Applications being Nos.815 of

2015 to 844 of 2015. The said Revision Applications were heard by the Revisionary Authority i.e. the Hon'ble Minister for Co-operation and as indicated above by the impugned order dated 21-1-2016 has allowed the said Revision Applications and has set aside the order dated 28-10-2015.

4 A reading of the impugned order discloses that the Revisionary Authority has drawn a general conclusion in respect of all the Petitioners and has not dealt with the case of the individual Petitioners. The Revisionary Authority has held that from the record it can be seen that the Petitioners herein who were the Appellants before the Revisionary Authority do not hold lands in the village concerned. The Revisionary Authority has held that the Divisional Joint Registrar has misinterpreted the bye law No.4(14) which according to the Revisionary Authority operates in a separate field.

5 The above Petition was heard from time to time at which hearing the Learned Counsel for the Petitioner submitted a tabulated statement, which statement indicates that almost all the Petitioners barring a few, have availed of loan from the Respondent No.5 and that all the Petitioners have land standing either in their own name or in the names of their husbands, or in the names of their fathers in case of male members and in the name of the father-in-laws in case of daughter-in-laws. Having regard to the aforesaid material on record, it has become necessary to consider the case of the Petitioners

individually rather than dealing with their case together and making general observations in respect of all the Petitioners. In my view since the said exercise has not been carried out by the Revisionary Authority, it would be just and proper to set aside the impugned order dated 21-1-2016 and remand the matter back to the Revisionary Authority for a denovo consideration. Hence the following directions :

- (i) The impugned order dated 21-1-2016 is quashed and set aside and the matter is remanded back to the Revisionary Authority for a denovo consideration.
- (ii) The Petitioners would produce the statement filed before this Court along with the necessary documents to buttress their case that they are qualified and eligible to be members of the Respondent No.5.
- (iii) The Respondent No.5 may consider the said material and thereafter record findings in respect of each of the Petitioners.
- (iv) The Petitioners to appear before the Revisionary Authority on 9-1-2017. The Revisionary Authority may thereafter decide the Revision Applications expeditiously but not later than 28-2-2017.

6 The Petition is allowed to the aforesaid extent and is disposed of.

[R.M.SAVANT, J]