

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

WRIT PETITION NO.9068 OF 2015

Florence Co-operative Hsg. So. .. Petitioner
V/s.
Dy.Registrar
R North Ward & Ors. .. Respondents

Mrs.Sumedha Rao for Petitioner No.4 & Applicant.
Mrs.M.S.Bane, 'B' Panel for Respondent Nos.1 & 2.
Capt.M.F. Fernandes-Respondent No.3 present in person.

CORAM : R.M. SAVANT, J.

DATE : 26th APRIL, 2016.

P.C.

1. The Writ jurisdiction of this Court is invoked against the order dated 08-05-2015 passed by the Divisional Joint Registrar Co-operative Societies, Mumbai Division, Mumbai, by which order the appeal filed by the Petitioner herein being appeal No.07 of 2015 came to be allowed, resultantly, the orders dated 01-01-2015 and 06-01-2015 passed by the Deputy Registrar Co-operative Societies, R North Ward, Mumbai under Section 78(A) (1)(b) and 77(A)(1)(B)(1) of the Maharashtra Co-operative Societies Act came to be set aside and the matter came to be

remanded back to the Deputy Registrar Co-operative Societies Act, R North Ward for denovo consideration and for decision on merits by giving reasons.

2. It is the submission of the learned counsel for the petitioner that since the petitioner society does not receive assistance from the Government the provisions of Section 78-A are not attracted. It is also the submission of the learned counsel that as laid down by this Court as well as the Apex Court the consultation with the Federal Society is the defining aspect which goes to the root of the matter and that the said aspect would also have to be considered.

3. In the instant case the remand has been ordered for the reasons mentioned in the impugned order dated 08-05-2015. Since the Divisional Joint Registrar has deemed it appropriate to remand the matter for the reasons mentioned in the impugned order amongst which is the reason of consultation with the Federal Society. In my view there is no warrant to interfere in the Writ jurisdiction of this Court with the impugned order. It would be open for the petitioner to urge the contentions which the

petitioner wishes to urge and it is open for the contesting respondents to reply to the said contentions. The Deputy Registrar, Co-operative Societies would be well advised to pass a reasoned order dealing with the contentions raised by the parties, with the aforesaid observations the Writ Petition is disposed of.

4. In so far as the proceedings under Section 83 are concerned it would be open for the petitioner to file a separate petition as the cause of action for the same is different than the cause of action for challenging the order passed by the Divisional Joint Registrar dated 08-05-2015.

5. The petitioner is granted two weeks time to file the said fresh petition challenging the proceedings under Section 83 and for a period of two weeks no precipitative steps to be taken by the authorities executing powers under the Co-operative Societies Act. In view thereof there is no warrant to consider the above Civil Application No.554 of 2016, which to accordingly stand disposed of.

(R.M. SAVANT, J.)