

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10852 OF 2015

Jayant Balubhai Patel	..	Petitioner
VS.		
State of Maharashtra & Ors.	..	Respondents

Mr. Birendra Kumar for Petitioner.
Mr. S. D. Rayrikar – AGP for Respondent Nos. 1 and 2.

CORAM : M. S. SONAK, J.
DATE: 11 JANUARY 2016

P.C. :-

1] The challenge in this petition is to the orders dated 15 December 2012 made under Section 83 of the Maharashtra Co-operative Societies Act, 1960 (said Act) and order dated 20 May 2014 made under Section 88 of the said Act.

2] The challenge to the order dated 15 December 2012 is barred by unexplained delay and laches. In any case, the said order merges with the order dated 20 May 2014. Therefore, at this stage, it is not possible to entertain any challenge to the order dated 15 December 2012 independently.

3] The order dated 20 May 2014 has been made under Section 88 of the said Act. Section 152 of the said Act provides that an

appeal against the order for possession under Section 88 is maintainable to the Authorities specified under the said Section. Mr. Rayrikar, the learned AGP, therefore objects to the entertainment of the present petition on the ground that an alternate efficacious and statutory remedy of an appeal is available to the petitioner under Section 152 of the said Act before the Divisional Joint Registrar. There is merit in the objection raised by Mr. Rayrikar.

4] Mr. Birendra Kumar, the learned counsel for the petitioner submits that availability of an alternate remedy is no bar to the entertainment of a writ petition. His submission is right. However, extra ordinary grounds are required to be made out by the petitioner for entertaining a petition, notwithstanding the availability of alternate, efficacious and statutory remedy of appeal. In this case no such grounds are made out. Therefore, there is no necessity to entertain the present petition. The petitioner however, shall be at liberty to avail the alternate remedy available under Section 152 of the said Act. Therefore, this petition is dismissed. However, the petitioner is granted liberty to avail the alternate remedy under Section 152 of the said Act. In case the petitioner institutes such appeal within four weeks from today, then the Appellate Authority to entertain such appeal and decide the same on merits without advertng to the issue of limitation.

5] This petition is disposed of in the aforesaid terms.

6] All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka