

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11672 OF 2016

Rajarambapu Sahakari Bank Ltd. .. Petitioner
VS.
The Commissioner of Co-operation &
Registrar Co-operative Societies & Ors .. Respondents

Mr. Amit Borkar for Petitioner.
Mr. Vijay K. for Respondent No.5.
Ms. M.S. Bane, AGP for Respondent Nos. 1,3 & 6.

CORAM : M. S. SONAK, J.
DATE: 19th OCTOBER 2016

P.C :

- 1] Rule.
- 2] With the consent of and at the request of the learned counsel for the parties, Rule is made returnable forthwith.
- 3] The grievance in this petition is that even though the petitioner has instituted a revision petition before the State Government to challenge the order of the Registrar dated 05.04.2016, the petitioner's application for stay, pending revision petition, is not being considered and at the same time, coercive action is being initiated against the petitioner for recovery of the amount referred in the impugned order.
- 4] The Registrar's order dated 05.04.2016 relates to three co-operative banks. One of the banks i.e., Parshavnath Co-operative

Bank Limited, when faced with the similar predicament had instituted WP No.8793/2016 before this court. The said petition was disposed of by the order dated 2nd September, 2016 in the following terms.

“1. Heard. By this petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 05.04.2016 passed by the Commissioner – respondent No.1 directing the petitioner to deposit sum of Rs.34,15,207/-.

2. The learned counsel for the petitioner submits that they preferred revision before the State of Maharashtra i.e respondent No.3 and same is pending for hearing and final disposal on merits.

3. The learned AGP for State placed on record a letter dated 01.09.2016 in which the respondent State has stated that the next date of hearing of revision application is kept on 14.09.2016 at 3.00 pm and they will decide the said revision within 3 months. Said letter is taken on record and marked “X” for identification.

4. Considering the submissions made by the learned counsel for the petitioner and the letter dated 01.09.2016, following order is passed:

a. The petitioner is directed to remain present before Respondent No.3 on 14.09.2016 at 3.00 pm for hearing of revision application filed by them.

b. The respondents are directed to decide the revision application within 3 months and provide a copy of order to other side.

c. The respondents are restrained by an order of injunction from taking any coercive action against the petitioner for recovery of Rs.34,15,207/- till hearing and final disposal of the revision application filed by them before respondent No.3

d. Writ Petition stands disposed of accordingly.”

5] Notwithstanding the submissions of learned counsel for respondent No.5, I see no substantial difference between the case of the Parshavnath Co-operative Bank Limited and the present petitioner. In fact, the order dated 05.04.2016 made by the Registrar, which is impugned in the revision petition by the petitioner, is a common order which applies to both the petitioner and the said Parshavnath Co-operative Bank Limited.

6] Learned counsel for the petitioner states that in case, similar interim relief pending, the revision petition is granted to the petitioner, the petitioner will file an undertaking before the Revisional Authority that the amount as required to be paid in terms of Registrar's order dated 05.04.2016, will be paid, in case, the revision is decided against the petitioner. This statement is also accepted.

7] Accordingly, the petitioner is directed to file undertaking to this effect before the Revisional Authority within a period of two weeks from today. In the undertaking, the petitioner, can always reserve the right to take out further proceedings, in case the petitioner is aggrieved by the order of the Revisional Authority.

8] Learned counsel for the petitioner further assures this Court that the financial position of the petitioner bank is quite stable and there is no possibility that the petitioner bank will be unable to honour the order of the Registrar in case the same is upheld by the Revisional Authority.

9] Taking into consideration, the aforesaid circumstances as also the order made by this Court in Writ Petition No. 8793/2016, the Revisional Authority is directed to dispose of the petitioner's revision application within a period of three months from the date of production of authenticated copy of this order.

10] The petitioner to appear before the Revisional Authority on 25th October, 2016 at 3 p.m and submit the authenticated copy of this order. Thereupon, the Revisional Authority to fix appropriate date for hearing of the Revision Petition and thereafter proceed to dispose of the Revision Petition, in accordance with law and on its own merits, as expeditiously as possible, and in any case within a period of three months from the said date.

11] Until, the Revision Petition is disposed of, the respondents are restrained from taking any coercive action against the petitioner for the execution or implementation of the Registrar's order dated 05.04.2016.

12] All contentions of all parties on merits are left open for the decision of the Revisional Authority.

13] This Writ Petition stands disposed of accordingly.

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

(M. S. SONAK, J.)