

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 1552 OF 2016

Sangam Bhavan Co-operative Housing Society Ltd. & Ors. ...Petitioners

v/s.

Divisional Joint Registrar C.S. & Ors.

...Respondents

....

Ms. Rita Bhatia, for the Petitioner.

N.S. Mulchandani, for the Respondent No. 3.

.....

CORAM : S.C. GUPTE, J.

DATED : 21st June, 2016

P.C :

Heard learned counsel for the parties. The petition impugns orders passed by the Assistant Registrar Co-operative Society and the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai, respectively on 26th May, 2016 and 15th December, 2016. The impugned order of the Assistant Registrar, passed under Section 77(A) of the Maharashtra Co-operative Societies Act, 1960 appoints an authorized officer for a term of six months to look after the day to day administration of the first petitioner society. Divisional Registrar's order of 26th May, 2016 dismisses the appeal preferred against the order of the Assistant Registrar.

2. The only controversy between the parties arising in the present petition is, whether the term of the Managing Committee appointed on 19th February, 2012 was for a period of three years or five years.

3. A certified copy of the by-laws of the first petitioner society has been tendered across the bar. The certify copy demonstrates that the election to the committee of the society is required to be held once in 3 years in accordance with the election regulations annexed to the by-laws.

4. Learned counsel for the petitioner submits that there is an interpolation made in the relevant by-law, namely, by-law No. 116 (a). The figure “five” is scored off and the figure “three” has been written in its place. She submits that there is no stamp of the office of the Registrar certifying its approval to this change. It is not the petitioner's case that the interpolation has taken place after the certified true copy of the by-laws was issued by the Registrar's office. The certified copy issued by Registrar's office itself has this correction with initials of the Joint Secretary of Society. In the premises, it cannot possibly be suggested that there is either a change or an un-authorized interpolation in the by-laws or that any such change requires approval

of the Registrar's Office. Even the report of the Returning Officer appointed by the Managing Committee of the first petitioner society for elections held on 19th February, 2012, states that the Managing Committee was appointed for the period 2012 – 2015, that is to say, for a tenure of 3 years with effect from February 2012.

5. In the premises, there is no case that the tenure of the Managing Committee appointed in February - 2012 continued till the date, when the impugned orders came to be passed by the Co-operative Authorities.

6. It is clear from the record that in spite appointment of an authorized officer by the Maharashtra State Election Authority by its letter dated 2nd January, 2015, the first petitioner society failed to conduct its elections, purportedly on the ground that the tenure of the Managing Committee appointed in 2012 was for 5 years. No elections to the Managing Committee have been held for over 9 months, in the premises. As a result, by their communication dated 28th October, 2015, the Co-operative Authorities issued an ultimatum to the first petitioner society that it should conduct Managing Committee elections within a period of 8 days, failing which, considering the

expiry of the tenure of the earlier Managing Committee, appropriate steps would be taken in accordance with law.

7. The first petitioner society not having co-operated with the authorized officer for conducting elections to the Managing Committee in accordance with this requisition, making the self-same assertion that the tenure of the Managing Committee has not come to an end, the authorities below had no option but to act under the provisions of section 77(A) of Maharashtra Co-operative Societies Act, 1960 and appoint an authorized officer to take charge of the affairs of the first petitioner society.

8. There is, thus, no merit in the petition. The petition is dismissed.

9. By consent of both sides, the Authorized Officer is directed to conduct elections of the Managing Committee of the first petitioner society within a period of two months from today.

(S.C. GUPTE ,J.)