

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1758 OF 2016

Lawrence Augustine D'Costa : Petitioner.
versus
The State of Maharashtra and ors. : Respondents.

Mr. Lawrence A D'Costa – Petitioner in Person.
Mr. R J Mane, AGP, for the Resondent Nos. 1 to 3.
Mr. Chacko Joseph a/w Ms. Sneha Sonawane for the Respondent Nos. 5 to 8.

CORAM : R. M. SAVANT, J.
DATE : 06th October 2016

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 10/02/2016 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai by which order the Appeal filed by the Petitioner under Section 152 of the Maharashtra Co-operative Societies Act (“the said Act” for short” being Appeal No.242 of 2012 came to be dismissed.

2 The said Appeal was filed challenging the enquiry report of the authorized officer dated 20/11/2011 under Section 88 of the said Act. The said enquiry was initiated pursuant to the report of the enquiry under Section 83 of the said Act which report is dated 11/03/2010 and in which report it is recorded that a financial loss of Rs.12.65 lakhs has been caused to the society. It seems that the enquiry report under Section 83 of the said Act was the

subject matter of challenge before a learned Single Judge of this Court in Writ Petition No.544 of 2011. It seems that the learned Single Judge of this Court had by order dated 15/04/2011 allowed the said Writ Petition and set aside the enquiry report dated 11/03/2010 on the ground that the said enquiry was initiated on the basis of the complaint of a single member. The said order of the learned Single Judge was carried in Appeal to a Division Bench of this Court by way of Appeal being No.316 of 2011. The Division Bench of this Court comprising of the Hon'ble the Chief Justice Mohit S Shah, as His Lordship then was and Justice Girish S Godbole, by the order dated 11/07/2011 admitted the Appeal and stayed the order passed by the learned Single Judge. However, the Division Bench directed that no further action on the basis of such report under Section 88 of the M.C.S. Act shall be taken without taking prior permission of this Court. Hence the Division Bench has directed that no further action to be taken on the basis of the report under Section 88 of the said Act without the permission of the Court.

3 It is required to be noted that remedy by way of an Appeal is one of the remedies provided by the said Act. Against the order passed in an Appeal there is a remedy by way of a Revision under Section 154 of the said Act to the State Government. The Petitioner Shri D'Costa who appears in person submits that the said remedy is not an efficacious remedy and adverts to the reasons mentioned in paragraph CC of the affidavit in rejoinder which is

as page 689 of the the writ paper book. The reasons given revolve around the merits of the order passed by the Divisional Joint Registrar and the ground that the principles of natural justice have been violated which is sought to be buttressed by contending that the interest of the society has not been taken into consideration by the Divisional Joint Registrar whilst deciding the Appeal. Hence the said ground also revolves around the merits of the impugned order passed by the Divisional Joint Registrar.

4 The Petitioner having availed of the statutory remedy by way of an Appeal under Section 152, therefore, cannot contend that the remedy by way of a Revision before the State Government is not an efficacious remedy. Hence having regard to the said statutory remedy by way of a Revision Application being available to the Petitioner under Section 154 of the said Act, it is not necessary for this Court to entertain the above Petition. Hence by relegating the Petitioner to the said remedy, the above Writ Petition is disposed of. It would be open for the Petitioner to avail of the said remedy by way of Revision within four weeks from date. Needless to state that if any such Revision Application is filed, the Revisionary Authority would consider the same on its own merits and in accordance with law uninfluenced by the instant order, by giving proper opportunity to the parties.

[R.M.SAVANT, J]