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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO.121 OF 2012**

Yunus Mahmood Maniyar	... Petitioner
Vs.	
The State of Maharashtra & Ors.	... Respondents

Mr. J.N. Shiradhankar for the Petitioner.
Mr. P.G. Lad, AGP for the Respondent Nos.1 and 16 – State.
Mr. Girish Godbole a/w Mr. K.R. Parikh i/by K.R. Parikh & Co. for the Respondent Nos.2 to 15.
Ms. Trupti Puranik for the Respondent – BMC.
Mr. Pratapsinh Rananavare for the Intervenor.

**CORAM : A.S. OKA &
A.A. SAYED, JJ.**

DATE : 29th JULY, 2016

PC.

1 The only substantive prayer in this Petition is prayer clause (b) which reads thus :-

“(b) Your Lordships be pleased to issue a writ, order and/or direction to the Respondent No.16 to initiate proceedings under Section 78 of the Maharashtra Co-operative Societies Act, 1960 by dismissing the present Board of Directors of the Sahakar Bazar and appointing an administrator/committee for the management of Respondent No.2 in accordance with law.”

2 The other prayers are for interim relief.

3 There is an affidavit in reply filed by Shri Mahendra Mhaske, District Registrar of the Co-operative Societies (III), Mumbai. Shri Mhaske has relied upon the proviso to Sub-Section (1) of Section 78 of the Maharashtra Co-operative Societies Act, 1960. Section 78 confers power on the Registrar to appoint an Administrator by superseding the Managing Committee of a Society. The proviso lays down that nothing in Sub-Section (1) of Section 78 will apply to a society where there is no Government shareholding or loan or financial assistance in terms of any cash or kind or any guarantee by the Government. There is a statement on oath in the said affidavit that as of today, in relation to the society in question, there is no Government shareholding or loan or financial assistance or guarantee by the Government. In short, the stand taken is that in view of the applicability of the proviso, action of appointing Administrator cannot be taken. The Petitioner or intervenor are unable to produce any material on record as of today to show that proviso is not applicable.

4 Hence, by accepting the statements made in the affidavit of Shri Mhaske, we propose to dispose of the Petition. If any statement in

the affidavit is found to be false, we grant liberty to the Petitioner to apply for revival of the Petition.

5 In the event, in future, the proviso ceases to apply to the society in question, the Petitioner can always make a representation to the Appropriate Authority of the State Government.

6 Subject to what is observed above, by accepting the statements made by Shri Mahendra Mhaske in his affidavit dated 7th May, 2016, we dispose of the Petition.

7 We, however, make it clear that we have made no adjudication on any factual aspects which are reflected from the pleadings filed on record. Pending Chamber Summons and Notices of Motions do not survive and the same are disposed of.

(A.A. SAYED, J)

(A.S. OKA, J)