

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.362 of 2016
(Shadanan s/o Hemraj Ashtankar v. The State of Maharashtra, through the
Principal Secretary, Cooperative Department, Mantralaya, Mumbai, and
others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri M.V. Samarth, Advocate for Petitioner.
Shri K.R. Lule, AGP for Respondent Nos.1, 2 and 4.

Coram : R.K. Deshpande, J.
Date : 9th February, 2016

Civil Application (CAW) No.311 of 2016 :

Heard the learned counsels appearing for the parties.

For the reasons stated in the application, the application is allowed.

Necessary amendment be carried out within a period of eight days from today.

The civil application is disposed of.

Writ Petition No.362 of 2016 :

The challenge in this petition is to the final order of liquidation of the petitioner-Society passed on 31-12-2015 under Section 102(2) of the Maharashtra Co-operative Societies Act,

1960. Similarly, the order dated 5-2-2016 passed in Revision Application No.582 of 2016 filed under Section 154 of the said Act refusing stay of the order dated 31-12-2015, is also made the subject-matter of challenge in this petition.

The basic ground of challenge to the order of liquidation under Section 102(2) of the said Act is that the mandatory requirement of providing an opportunity to the petitioner-Society before confirming the interim order, was not provided. The response to this challenge by the respondents is that the registered address of the petitioner-Society was at 134, Ramdaspath, Nagpur, on which the notice was sent, calling upon the petitioner-Society to submit its reply. No reply was received and, therefore, the final order has been passed in terms of sub-section (2) of Section 102 of the said Act.

There is a statutory appeal provided under Section 104 of the said Act to challenge the order of liquidation passed under sub-section (2) of Section 102 of the said Act. Such appeal has in fact been preferred and it is pending for final adjudication. By the interim order, the prayer for stay of the order of liquidation has been rejected, holding that *prima facie* there was a compliance by sending the notice on the registered address of the petitioner-Society. In such facts and circumstances, it is not necessary for this Court to record any finding as to whether the

service effected on the petitioner-Society was proper or not, as the matter is *sub judice* under Section 104 of the said Act. The impugned order passed by the Divisional Joint Registrar, Co-operative Societies, Nagpur refusing stay of the order dated 31-12-2015 passed by the Deputy Registrar, Co-operative Societies, Nagpur, therefore, does not call for interference.

The petition is dismissed.

Needless to say that all questions on merits are left open to be agitated in appeal.

Judge.

Lanjewar