

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12516 OF 2017

GODVARI BABARAO SHINDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. S. G. Dodya
AGP for Respondents 1 to 3: Mr. P. N. Kutti
Advocate for Respondent No.5 : Mr. S.S. Deshmukh

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CORAM : V. K. JADHAV, J.
DATED : 23rd NOVEMBER, 2017

PER COURT:-

1. Being aggrieved by order dated 9.10.2017 passed by the respondent No.2, Divisional Joint Registrar, Co-operative Societies, Aurangabad in appeal Nos. 17 of 2017, 50 of 2017 and 51 of 2017, the original appellants approached this Court by filing present writ petition.

2. Learned counsel for the petitioners submits that respondent No.2 Divisional Joint Registrar, Co-operative Societies, Aurangabad while passing the impugned order on the stay applications, has not considered the grounds raised by the petitioners as well as the ratio laid down in the case of ***Laxman Sakharam Balsare vs. Municipal Council, Warud, reported in 1988 (4) B.C.R. 576*** relied upon by the petitioners in support of their contentions. Learned counsel submits

that this Court may consider the ratio laid down in the aforesaid case and further direct respondent No.2 to decide the pending appeals in the light of ratio laid down in the aforesaid case.

3. Learned counsel for respondent No.5 submits that the main appeals are pending before respondent No.2 Divisional Joint Registrar, Co-operative Societies, Aurangabad and even respondent No.2 has fixed the date for final hearing as 28.11.2017. Learned counsel submits that respondent No.2 Divisional Joint Registrar, Co-operative Societies, Aurangabad is bound to decide the pending appeals on their own merits, in accordance with law. It is nothing but prejudging of his order, which is yet to be passed in the appeals and at this stage when the appeals are pending, no such directions can be given by making observations in this writ petition on the basis of the case law, which is relied upon by the learned counsel for the petitioners.

4. In view of above, I agree with the submissions made on behalf of respondent No.5 that it would be prejudging of the decision in the appeals. It is for respondent No.2 Divisional Joint Registrar, Co-operative Societies, Aurangabad to decide the pending appeals on their own merits, in accordance with law and consider the case law relied upon by the respective parties. I find no substance in this writ

petition. However, the petitioners are at liberty to submit the case laws before respondent No.2 Divisional Joint Registrar, Co-operative Societies, Aurangabad to substantiate their respective contentions. Writ petition is accordingly disposed of.

5. The petitioners are at liberty to file an application before respondent No.2 for expeditious hearing of pending appeals

(V. K. JADHAV, J.)

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