

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5314 OF 2017

Sangeeta R. Vaswani & Ors.] Petitioners

Vs.

Divisional Joint Registrar, C.S.M.D, Mumbai]
and others.] Respondents

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Mr. S.S. Patwardhan a/w Mr. Bhooshan Mandlik, for the petitioners.

Mr. Swaraj Jadhav, for respondents No. 4A, 4B to 8.

Mr. S.D. Rayrikar, A.G.P, for respondents No. 1, 2 and 9.

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CORAM : R.G. KETKAR, J.

DATE : 5TH MAY, 2017.

P.C.

Not on board. At the request of Mr. Patwardhan taken up in the production board.

2. Heard Mr. Patwardhan, learned Counsel for the petitioner, Mr. Rayrikar, learned A.G.P for for respondents No.1, 2 and 9 and Mr. Jadhav, learned Counsel for respondents No.4A, 4B

to 8 at length.

3. This petition takes exception to the order dated 16th March, 2017 passed by respondent No.2, the Deputy Registrar Co-operative Societies, C.S 'D' Ward, Mumbai as also judgment and order dated 18th April, 2017 passed by respondent No.1 Divisional Joint Registrar Co-operative Societies, 'D' Ward, Mumbai. By these orders, the Authorities below appointed respondent No.3 Mr. Sanjay Adarkar, certified Auditor as authorized officer with further directions to take charge of the entire record of the petitioner/Society and prepare voters list in accordance with the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 and to hold election within six months for constituting the managing committee.

4. Mr. Jadhav raised preliminary objection that against the impugned order dated 18th April, 2017, the petitioners have already preferred Revision Application under section 154 of the Maharashtra Co-operative Societies Act, 1960 [for short 'Act'] before the State Government. He, therefore, submitted that as the petitioners have already availed of alternate remedy, this Court

will not exercise powers under Article 227 of the Constitution of India.

5. Mr. Patwardhan submitted that though the petitioners have instituted revision application on 24th April, 2017 and also filed separate application for stay, the Hon'ble Minister is not available for hearing the stay application. He has further filed affidavit dated 5th May, 2017 of Sangita Ravi Vaswani enclosing therewith order dated 4th May, 2017 passed by respondent No.1, Deputy Registrar directing the Senior Police Inspector attached to Malbar Hill Police Station to collect record of the Society and hand over the same to respondent No.3 and submit compliance report within seven days. He, therefore, submitted that concerned authority may be directed to decide at least stay application in a time bound manner. Mr. Rayrikar submits that stay application will be decided either by the Hon'ble Minister or by the Secretary in terms of Section 154 (4) of the Act within 4 weeks from today.

6. In view thereof, petition can conveniently be disposed of by directing the State Government to dispose of the stay application within 4 weeks from today. Parties agree that they will

appear before the Hon'ble Minister on 8th May, 2017 at 3.00 p.m. and for that purpose, no fresh notice be issued to them. The Hon'ble Minister or Secretary will decide the stay application within 4 weeks from today and if possible prior thereto. All contentions of the parties in that regard are expressly kept open. Till such time, there shall be ad-interim order in terms of prayer clause (c). Grant of ad-interim order shall not be construed as an expression of merits either way.

7. Petition is disposed of in the aforesaid terms with no order as to costs.

8. All the parties including Authorities of the State Government to act upon the authenticated copy of the order.

[R.G. KETKAR, J.]