

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10412 OF 2016

Capt. Retd. Haresh Gaglani & anr. : Petitioners
Versus
Narottam Nivas C.H.S.Ltd and ors. : Respondents.

Mr. Prashant G Pandey for the Petitioner.
Mr. Ramchandran N i/by Narayanan & Narayanan for the Respondent
Nos.1 to 4.
Mrs. V S Nimbalkar, AGP, for the Respondent Nos.5 and 6.

CORAM : R. M. SAVANT, J.
DATE : 03rd March 2017

P.C.

1 The above Writ Petition takes exception to the order dated 03/05/2016 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai by which order the Revision Application being No.456 of 2014 filed by the Respondent Nos.2 to 4 herein came to be allowed and resultantly the order dated 11/12/2014 passed by the Assistant Registrar Co-operative Societies, F/N Ward, Mumbai came to be quashed and set aside.

2 The Petitioners herein were the complainants before the Assistant Registrar and their complaint was referable to Section 75 of the Maharashtra Co-operative Societies Act (for short “the said Act”). Suffice it would be to state that the Assistant Registrar had issued show cause notice dated 05/11/2014 under Section 75(5) of the said Act. Pursuant to the said show

cause notice, the Assistant Registrar passed an order dated 11/12/2014 under Section 75(1)(2)(3)(4) and 79(1a) of the said Act. The consequence of the said order was the Chairman Ms. Santosh Ben, the Secretary Mr. Sanjeeva Shetty and Treasurer Mr. Dilip Joshi were removed as office bearers of the managing committee in view of the default committed by them in not placing the audited statement of accounts before the general body.

3 The Respondent Nos. 2 to 4 hereby aggrieved by the said order dated 11/12/2014 invoked the revisionary jurisdiction under Section 154 of the said Act and filed a Revision before the Divisional Joint Registrar. The Divisional Joint Registrar has by the impugned order dated 03/05/2016 set aside the order dated 11/12/2014 passed by the Assistant Registrar. The gist of the reasoning of the Divisional Joint Registrar as can be seen from the impugned order was that the Assistant Registrar had failed to give proper and fair opportunity of being heard to the Respondent Nos.2 to 4 herein and that the Respondent Nos.2 to 4 herein who were the office bearers had thereafter called a special general body meeting and placed the audited statement of accounts before the general body. As indicated above it is the said order dated 03/05/2016 passed by the Divisional Joint Registrar which is taken exception to by way of the above Writ Petition.

4 During the course of hearing of the above Writ Petition, the

learned counsel appearing on behalf of the Respondent Nos.1 to 4 Shri Ramchandran Narayanan on instructions states that the Respondent Nos.1 to 4 have no objection if both the orders i.e. order dated 11/12/2014 as also the order dated 03/05/2016 are set aside and the matter is remanded back to the Assistant Registrar, F/N Ward, Mumbai for a de-novo consideration of the Petitioners' application.

5 In view of the aforesaid statement made by the learned counsel for the Respondent Nos.1 to 4, the learned counsel appearing on behalf of the Petitioners Shri Prashant Pandey stated that he has no objection to the said course of action being followed.

6 In view of the statements made by the learned counsel as aforesaid, both the orders i.e. i.e. order dated 11/12/2014 passed by the Assistant Registrar, F/N Ward, Mumbai as also the order dated 03/05/2016 passed by the Divisional Joint Registrar, Mumbai Division, Mumbai are accordingly quashed and set aside and the matter is remanded back to the Assistant Registrar, F/N Ward, Mumbai for a de-novo consideration of the application filed by the Petitioners. Needless to state that on remand the Assistant Registrar would consider the application filed by the Petitioners on its own merits and in accordance with law by giving proper opportunity to the parties. The parties to appear before the Assistant Registrar on 20/03/2017 at

3.00 pm. The Assistant Registrar may thereafter dispose of the application filed by the Petitioners expeditiously. Needless to state that the contentions of the parties are kept open for being urged before the Assistant Registrar. With the aforesaid directions, the above Writ Petition is disposed of.

[R.M.SAVANT, J]