

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

**WRIT PETITION NO. 9096 OF 2016**

Ms. Jyoti Khubchandani

.. Petitioner

v/s.

Mangal Aadesh Co-operative Housing  
Society Ltd. & Ors.

.. Respondents

Ms. Jyoti C. Khubchandani petitioner in person  
Mr. S.D. Rayrikar, AGP for respondent no.2  
Mr. Avinash H. Fatangare for respondent no.1

**CORAM : M.S. SANKLECHA, J.  
DATED : 10<sup>th</sup> OCTOBER, 2017**

**PC.**

1. This petition under Articles 226 and 227 of the Constitution of India challenges the order dated 16<sup>th</sup> June, 2016 passed by the Assistant Registrar of Co-operative Societies.

2. At the very outset, Mr. Fatangare, learned Counsel appearing for the respondent no.1 and Mr. Rayarikar, learned Counsel for respondent no.2 state that the petitioner has an alternative remedy of filing a Revision Petition under Section 154 of the Maharashtra State Co-operative Societies Act (Act) to the District Deputy Registrar. Therefore, it is submitted that the petition should not be

entertained.

3. In response to the above, the petitioner states that on an earlier occasion also the Assistant Registrar had passed an order dated 18<sup>th</sup> March, 2013 and being aggrieved she had filed a Revision to the District Deputy Registrar. By order dated 14<sup>th</sup> October, 2015, the District Deputy Registrar in exercise of his powers under Section 154 of the Act had set aside the order dated 18<sup>th</sup> March, 2013 and restored it to the Assistant Registrar to pass a fresh order in accordance with the Rules. However, it is her case that the order passed on 16<sup>th</sup> June, 2016 on remand is in breach of the directions contained in the order dated 14<sup>th</sup> October 2015 passed by the District Deputy Registrar. Therefore, it is her submission that this petition should be entertained and she should not be relegated to the alternate remedy available under the statute.

4. Admittedly, an efficacious alternative remedy is available under the Act. As a matter of self imposed limitation, the Courts do not issue prerogative writ in such cases. This is particularly so as in the present facts, no issue of enforcement of fundamental rights or

the impugned order being passed by a person who inherently lacks jurisdiction or in breach of natural justice in passing the order (*See Whirpool Corp. Vs. Registrar, Trade marks, 1998 (8) SCC 1*). Thus, I see no reason why the petitioner should not be directed to avail of the alternative remedy available under the Act.

5. On 23<sup>rd</sup> January, 2017, this Court while issuing notice for admission has recorded the fact that the petitioner has already deposited 50% of the amount payable under the impugned order. Therefore, granted ad-interim stay to further recovery. In the above view, in case the petitioner does file a Revision Application under Section 154 of the Act from the impugned order dated 16<sup>th</sup> June, 2016 to the District Deputy Registrar within 4 weeks from today, the same shall be entertained on merits (as the delay if any is being condoned by this order) and shall not insist on any further deposit. It is made clear that the aforesaid direction proceeds on the basis that 50% amount due under the impugned order, which has already been deposited has not been refunded. The petitioner states that no amount of the deposit of 50% has been refunded to her.

6. The Divisional Joint Registrar is requested to dispose off the petitioner's revision application, if filed, within a period of 4 weeks from today, as expeditiously as possible and preferably within 4 months after the filing of the revision application.

7. Therefore, the petition is disposed of in the above terms. No order as to costs.

**(M.S. SANKLECHA, J.)**