

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

WRIT PETITION NO.9223 OF 2014

Mr. Shreekant Ruia	..Petitioner
Versus	
Deputy Registrar Co-operative Societies, K/E Ward and and others	..Respondents

**ALONGWITH
WRIT PETITION NO.9224 OF 2014**

Mr. Shreekant Ruia	..Petitioner
Versus	
Deputy Registrar Co-operative Societies, K/E Ward and and others	..Respondents

Mr. S. M. Sabrad for the Petitioner in both the Writ Petitions.
Mr. S. D. Rayrikar, AGP for the Respondent Nos.1 & 4.
Mr. Ulhas T. Naik for the Respondent No.2.
Mr. A. A. Karande for the Respondent Nos.5 & 7.

CORAM : R. M. SAVANT, J.
DATE : 6th MARCH, 2017

PC.

1 In so far as the Writ Petition No.9223 of 2014 is concerned, it has been filed challenging the order dated 19.09.2014 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai. By the said order the Revision Application filed by the Petitioner herein came to be dismissed and resultantly, the order dated 04.07.2013 passed by the Deputy Registrar, Co-operative Societies, K/E Ward, Mumbai under Section 76(2) of the Maharashtra Co-operative Societies

Act, 1960 (For short “the MCS Act”) came to be confirmed.

2 In so far as the Writ Petition No.9224 of 2014 is concerned, it takes exception to the order dated 19.09.2014 passed by the Divisional Joint Registrar, by which order, the Appeal No.61 of 2014 filed by the Petitioner came to be dismissed and resultantly, the order dated 10.04.2014 passed by the Deputy Registrar, Co-operative Societies, K/E Ward, Mumbai, under Section 77(A) of the MCS Act came to be confirmed.

3 By the order impugned in Writ Petition No.9223 of 2014 the office bearers of the managing committee were removed under Section 76(2) of the MCS Act on the ground that they had failed to convene the Special General Body Meeting general body meeting of the society though a requisition was made in that regard. In so far as Writ Petition No.9224 of 2014 is concerned, in view of the fact that the quorum of the managing committee had gone below the required number, the Deputy Registrar, Co-operative Societies had appointed as Authorized Officer to take over the management of the society. It is an undisputed position that the term of the managing committee of the society has come to an end in June 2014. The Learned Counsel appearing on behalf of the Petitioner Mr. S. M. Sabrad draws this Court's attention to the letter dated

23.02.2017 addressed by the Ward Co-operative Election Authority, Co-operative Societies K/E Region, Mumbai. The said letter is addressed to the Authorized Officer Shri. Jaywant Narayan Nikam and he has been directed to complete the holding of elections to the society and submit a report to the Election Authority. In view of the said letter dated 23.02.2017 which evidences the directions to commence the election process, the above Petitions challenging the order passed under Section 76(2) as also the order passed under Section 77(A) have in a sense turned infructuous, as admittedly, the tenure of the managing committee has come to an end in June 2014. However the Learned Counsel appearing for the Petitioner states that the challenge to the order passed under Section 76(2) to the extent it disqualifies the Petitioner for a period of five years remains. In so far as the said challenge is concerned, it appears that a large number of members had made a requisition for the holding of a Special General Body Meeting of the society. In spite of such requisition no Special General Body Meeting was held. The members thereafter approached the Deputy Registrar of Co-operative Societies by letter dated 31.01.2013. The Deputy Registrar issued directions vide letter dated 16.03.2013, in spite of the same no meeting was held. The Deputy Registrar thereafter passed the order dated 04.07.2013.

4 Having regard to the reasons mentioned in the order dated

04.07.2013 passed by the Deputy Registrar of Co-operative Societies, wherein he has recorded that in spite of receipt of the letter from his office directing the office bearers i.e. the Petitioner and the Chairman of the society to hold the Special General Body Meeting, no such meeting was held and no compliance report was submitted to the Registrar. The said finding recorded by the Deputy Registrar has been confirmed by the Divisional Joint Registrar by the impugned order dated 19.09.2014. Hence the non-holding of the Special General Body Meeting by the Secretary and Chairman of the society in spite of requisition made by a large number of members of the society, attracts the disqualification contemplated by Section 76(2) of the MCS Act. It is not possible to accept the contention urged on behalf of the Petitioner that neither the requisition nor the letter of the Deputy Registrar was received by the Petitioner. The concurrent orders passed by the authorities disqualifying the Petitioner need not be interfered with in the writ jurisdiction of this Court. The above Writ Petition No.9223 of 2014 is accordingly dismissed. In so far as Writ Petition No.9224 of 2014 is concerned, it is disposed of as having turned infructuous.

5 The Authorized Officer in terms of the said directions as contained in the letter dated 23.02.2017 may commence the election process and complete the same as directed by the said letter. The

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Authorized Officer to only carry out the day to day affairs of the society and would not take any policy decisions and would not expend the funds of the society for purposes other than the payments which are required to be made in the course of conducting the day to day affairs.

[R.M.SAVANT, J]