

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

WRIT PETITION (ST) NO.33456 OF 2016

Smt Vrinda Rayappa Manatri and others	... Petitioners
v/s	
The State of Maharashtra and others	... Respondents

Shri P.S. Dani, Senior Counsel with Shri Vishal Kanade i/b Shri S.S. Raut for Petitioners.

Shri S.D. Rayrikar, AGP for Respondent Nos.1 to 3.

Shri G.S. Godbole, i/b Shri P.M. Tilak for Respondent Nos.4 to 6.

CORAM : R. M. SAVANT, J.
DATE : 1st February 2017

P.C.

1 The order dated 30th November 2016 passed by the Hon'ble Minister for Co-operation, Marketing and Textile, Government of Maharashtra is taken exception to by way of the above Petition. By the said order, the Revisionary Authority has stayed the order dated 22nd November 2016 passed by the Divisional Joint Registrar, Pune. The genesis of the said proceedings lie in the proceedings initiated against the Petitioners herein who are the office bearers of the National Co-op. Housing Society Ltd., Survey Nos.118 to 124, Baner Road, Aundh, Pune 411 007.

2. The gravamen of the allegation against the Petitioners was the

non-holding of Special General Body Meeting by them. The show-cause notice therefore came to be issued against the Petitioners under section 76 which has culminated in the order dated 18th November 2016 passed by the District Deputy Registrar, Co-op. Societies, Pune City (2) under sections 76 and 77-A of the Maharashtra Co-operative Societies Act 1960 (for short, the said Act). The consequence of the said order was the removal of the Petitioners and the appointment of an authorised Officer as contemplated under section 77A of the said Act. Having regard to the provisions under which the said order dated 18th November 2010 was passed, the Petitioners filed an Appeal before the Divisional Joint Registrar, Pune under section 152 of the said Act.

3. The said Appeal was immediately moved for interim relief on the next date i.e. on 22nd November 2016, the Divisional Joint Registrar by an order passed on the said day stayed the order passed by the Deputy Registrar, Co-operative Societies. The Respondent Nos.4 to 6 being aggrieved by the said order passed by the Divisional Joint Registrar dated 22nd November 2016 invoked the revisionary jurisdiction under section 154 by filing a Revision before the State Government. In the said Revision, the Respondent Nos.4 to 6 moved an application for stay. The said application was considered by the Revisionary Authority and an ex-parte stay came to be granted by the impugned order dated 30th November 2016.

4. As a consequence of the stay granted, the authorised Officer has taken charge of the management of the Society. The above Petition was moved for urgent reliefs on 6th December 2016 on which date the factum of authorised Officer taken deemed charge was noted in the order passed on the said day, however, the parties were directed to maintain status-quo. The learned AGP appearing for the State reiterates the statements which were made on 16th December 2016 viz. that the authorised Officer has taken charge which fact is also sought to be buttressed by the learned counsel appearing for Respondent Nos.4 to 6 by stating that the day-to-day payments are being made by the authorised Officer. Be that as it may, in view of the fact that the Appeal filed by the Petitioners is pending adjudication by the Divisional Joint Registrar, in my view, the interest of justice would be served if the following directions are issued :-

- “A) The Divisional Joint Registrar, Co-operative Societies, Pune would proceed with the hearing of the Appeal and dispose of the same latest by 15th March 2017.
- B) The objection raised on behalf of the Respondent Nos.4 to 6 that an Appeal is not maintainable stands rejected having regard to the fact that the order passed is one composite order under sections 76 and 77-A of the said Act and that it

is the case of the Petitioners that section 77A could not have been invoked having regard to the mandate of section 76 of the said Act.

- C) The contentions of the parties on merits excluding the point of maintainability of the Appeal are kept open for being urged before the Divisional Joint Registrar.
- D) The continuation of the authorised Officer would be contingent upon the fate of the Appeal.
- E) In the interregnum, the authorised Officer would not take any major decision and would not also expend the funds of the Society except for making day-to-day and monthly payments.
- F) Till the appeal is decided, the status-quo as on date would prevail, meaning thereby that no steps would be taken to hold the elections for the Managing Committee.
- G) The parties to appear before the Divisional Joint Registrar, Co-operative Societies, Pune on 7th February 2017.

5. In view of the aforesaid, Shri Godbole, learned counsel appearing for Respondent Nos.4 to 6, makes a statement that the Revision filed before the Government would be withdrawn. The statement is accepted. With the aforesaid directions, the above Writ Petition is disposed of.

Parties to act upon a copy of the instant order duly authenticated by the Court Sheristedar.

[R.M.SAVANT, J]