

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION STAMP NO.35783 OF 2016**

**Hari Preet Co-op Society Ltd
Through its Office Bearers of
Managing Committee and
Authorised Representatives
Kamlesh S Gandhi (Secretary & ors. : Petitioners.
Versus
The Deputy Registrar, Co-op. Societies
H-West Ward, Mumbai and ors. : Respondents.**

**Ms. Archana Khan a/w Mr. R D Motkari for the Petitioners.
Mr. S L Babar, AGP for the Respondent Nos.1, 2 and 13.
Mr. V D Patil for the Respondent No.3 to 12**

**CORAM : R. M. SAVANT, J.
DATE : 10th February 2017**

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 19/12/2016 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai by which order the Appeal filed by the Petitioners came to be dismissed.

2 The said Revision Application was filed by the Petitioner Society against inclusion of the names of Respondent Nos.3 to 12 in the final list of voters for elections to be held to the Petitioner Society. It seems that the names of the Respondent Nos.3 to 12 were shown as defaulters in the provisional voters list. The said Respondents it seems represented against the said

provisional list of voters to the Deputy Registrar, Co-operative Societies, Mumbai in respect of the remarks made against their names. It seems pursuant to the said representation the Deputy Registrar put up the papers before the District Deputy Registrar of Co-operative Societies. The District Deputy Registrar entered into an inquiry into the same and called for the reply of the Petitioner Society. After the said reply was submitted by the Petitioner Society as also considering the submissions that were made before him, the District Deputy Registrar by his order dated 08/09/2016 directed that the names of the Respondent Nos.3 to 12 be included in the final voters list. The District Deputy Registrar has adverted to the exercise of the powers under Section 77A of the Maharashtra Co-operative Societies Act (for short "the said Act") in the matter of superseding the managing committee of the Petitioner Society in view of the fact that the term of the managing committee was already over. The District Deputy Registrar has also observed that the office bearers of the Petitioner Society were purposely delaying and avoiding to include the names of the Respondent Nos.3 to 12 though they were not defaulters.

3 The Petitioner Society aggrieved by the said directions as contained in the order dated 08/09/2016 filed a Revision before the Divisional Joint Registrar Co-operative Societies, Mumbai Division, Mumbai. The Divisional Joint Registrar having regard to the fact that authorized officer has

been appointed under Section 77A of the said Act for conducting the inspection of the records of the Petitioner Society as also in respect of the voters list, as also having regard to the fact that the parties were heard prior to issuing the said direction as contained in order dated 08/09/2016 did not deem it appropriate to interfere with the said direction and accordingly dismissed the Revision. The consequence of the order dated 08/09/2016 and the dismissal of the Revision filed by the Petitioners by the impugned order dated 19/12/2016 was that the names of the Respondent Nos.3 to 12 were directed to be included in the voters list which direction has been confirmed by the impugned order, as a result of which the names of the Respondent Nos.3 to 12 have been included.

4 It is brought to the notice of this Court by the learned counsel for the Respondent Nos.3 to 12 that the application filed under Section 101 of the said Act for recovery of the alleged dues against the said Respondent Nos.3 to 12 has been rejected by the Deputy Registrar by order dated 28/07/2016 and thereafter the Revision filed by the Petitioner Society has also been dismissed by the District Deputy Registrar by order dated 21/04/2017. The said fact is also appearing in the additional affidavit filed on behalf of the Petitioner dated 09/02/2017 and especially paragraph 4 thereof. Hence in so far as the said Respondent Nos.3 to 12 are concerned, as of date there is no order passed against the said Respondents which would indicate that the said Respondents

owe any amount to the Petitioner Society.

5 In so far as the Petitioner Society is concerned, the authorities below have exercised powers under Section 77A of the said Act and have appointed authorized officer to look after the affairs of the Petitioner Society and to take steps to conduct the elections to the Petitioner Society. It is required to be noted that the process for holding the elections to the Petitioner Society has already started as can be seen from the fact that the names of the Respondent Nos.3 to 12 are included in the final list of voters. In my view, therefore no interference is warranted with the order dated 08/09/2016 passed by the Deputy Registrar as confirmed by the impugned order dated 19/12/2016 passed by the Divisional Joint Registrar. The above Writ Petition is accordingly dismissed. In the event the Respondent Nos.3 to 12 contest the elections and are elected it would be open for the persons aggrieved by their elections to file appropriate proceedings challenging the said elections. It is also clarified that if any proceedings are filed to challenge the orders passed in the Revisions filed by the Petitioners before the Divisional Joint Registrar challenging the order passed under Section 101 of the said Act, the said proceedings would be considered on their own merits and in accordance with law. It is expected of the authorities that the electoral process would be completed expeditiously and in terms of the rules.

[R.M.SAVANT, J]