

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL JURISDICTION**

WRIT PETITION NO. 646 OF 2017

Golden Rock Co-operative Housing	]	
Society Ltd.	]	Petitioner

Vs.

Deputy Registrar, Co-operative Societies	]	
Mumbai & Ors.	]	Respondents

.....

Mr. Rajesh Singh i/b Legal Liasons, for petitioner.
Mr. Manish Upadhyay, for State-respondents No.1 to 3.

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CORAM : R.G. KETKAR, J.

DATE : 5th June, 2017.

P.C.

Heard Mr. Rajesh Singh, learned Counsel for the petitioner and Mr. Manish Upadhyay, learned A.G.P for respondents No.1 and 3. Mr. Singh submits that respondent No.2 is served. Despite service, he is not appearing in the matter.

2. Mr. Upadhyay raised preliminary objection as regards

maintainability of the Petition. He submits that respondent No.1 Deputy Registrar, Co-operative Societies, H- West Ward has passed impugned order on 16th January, 2017 under Section 77A of the Maharashtra Co-operative Societies Act, 1960 (for short 'Act'). Against that order, petitioner has an equally efficacious statutory remedy of filing an appeal under Section 152 of the Act before Divisional Joint Registrar and, therefore, this Court will decline to exercise its power under Article 227 of the Constitution of India.

3. In view thereof, Mr. Singh seeks permission to withdraw this Petition with a liberty to file appeal within three weeks from today. He submits that Divisional Joint Registrar may be directed to decide the appeal on its merit and not to reject on the ground that it is barred by limitation. He further submits that order dated 2nd February, 2017 passed by this Court staying impugned order dated 16th January, 2017 may be continued for four weeks from today so as to enable the petitioner to seek appropriate interim order from Divisional Joint Registrar.

4. In view thereof, on the motion made by Mr. Singh, Petition is allowed to be withdrawn with a liberty to file

appeal under Section 152 of the Act before Divisional Joint Registrar. If appeal is filed within 3 weeks from today, Divisional Joint Registrar shall not dismiss the appeal on the ground that it is barred by limitation. All the contentions of the parties are expressly kept open. Interim order dated 2nd February, 2017 passed by this Court staying impugned order shall remain in force for 4 weeks from today so as to enable the petitioner to obtain interim order from the Appellate Authority. Parties to act upon the authenticated copy of this order. Order accordingly.

[R.G. KETKAR, J.]