

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.1189/2017

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Milind Sathe, Senior Advocate a/w. Dr. Birendra Saraf, Mr. I. J. Nankani, Mr. H. S. Khokhawala i/b. Nankani & Associates for the Petitioner

Mr. Abhay Patki, Additional G.P. for Respondent No.1.

Mr. Arun Nile i/b. G. K. Tripathi for respondent No.4.

Mr. M. C. Dixit for respondent No.6.

Mr. S. U. Kamdar, Senior Advocate a/w. Mr. Ashish Kamat, Mr. Ranvir Shekhawat i/b. M/s. Raj Legal for respondent No.7.

Mr. S. T. Kothavale, Dy. Registrar, Coop. Societies, "D" Ward, Mumbai.

CORAM : K. K. TATED, J.

DATE : MAY 3, 2017

P.C.:

1. Heard. By this petition under Article 226 of the Constitution of India the Petitioner challenges the order dated 08.03.2017 passed by the learned Dy. Registrar, Cooperative Societies, "D" Ward, Mumbai u/s. 77A(1)(f-i) of the Maharashtra Cooperative Societies Act, 1960 (said Act) appointing respondent Nos.2 to 5 as members of respondent No.6's Managing Committee.

2. The learned senior counsel for the petitioner submits that the Authority, without following due process of law as required under section 77A of the said Act, passed the impugned order. Hence, the impugned order is liable to be set aside. He submits that as per the said Section, before passing the order, it is the duty of the Registrar to publish a notice on the notice board at the head office of the society, inviting objections and suggestions with respect to the proposed order within a period specified in the notice and consider all objections and suggestions received by him within that period. He submits that in the present proceedings, the society, by letter dated 18.02.2017 informed the Dy. Registrar, Cooperative Societies, "D" Ward that the Managing Committee passed resolution on 06.12.2016 suggesting the names of respondent Nos.2 to 5 to nominate them as members of the Managing Committee. He submits that the Authority, without hearing them, passed the impugned order. Hence, same is liable to be set aside.

3. The learned AGP for respondent No.1, after taking instructions from their Officer who is present in court, submits that it remained on their part to follow the procedure as prescribed under section 77A of the said Act. He submits that they

are ready and willing to follow the due process of law under the said Act within two weeks from today.

4. Considering the submissions made by the learned counsel for the parties and as the Authority has failed to follow the procedure prescribed under section 77A of the said Act, I am of the opinion that in the interest of justice, it is necessary to set aside the impugned order dated 08.03.2017 passed by the learned Dy. Registrar, Cooperative Societies, "D" Ward, Mumbai directing to follow the due process of law.

5. Hence, following order is passed:

a. The order dated 08.03.2017 passed by the learned Dy. Registrar, Cooperative Societies, "D" Ward, Mumbai u/s. 77A(1)(f-i) of the Maharashtra Cooperative Societies Act, 1960 in respect of respondent No.6 society is set aside.

b. In view of this order, the ad-interim relief granted by this court on 28.04.2017 stands vacated.

c. The Authority is directed to follow the due process of law as required u/s.77A(1)(F-i) of the said Act.

d. The Authority to decide the matter as early as possible but in any case within eight weeks from today.

e. The Writ Petition stands disposed of accordingly.

JUDGE