

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 2111 OF 2017

Mr. Sheikh N. Ismail and ors. .. Petitioners
vs.
The Divisional Joint Registrar and ors. .. Respondents

Mr. S.P. Shetye for the Petitioner.
Mr. Manish Upadhye, AGP for Respondent Nos.1,2,8 and 9 – State.

CORAM : M. S. SONAK, J.
DATE : 09 AUGUST 2017.

P.C. :-

- 1] Not on board. In view of urgency, taken on production board.
- 2] Heard Mr. Sachin Shetye, learned counsel for the petitioners and Mr. Upadhye, learned AGP for Respondent Nos.1,2 , 8 and 9.
- 3] Although, no notice has been served upon the remaining respondents, taking into consideration the order which is proposed to be made, at least at this stage, the hearing need not be deferred until the service of notice upon such respondents.
- 4] The Deputy Registrar, by orders dated 2nd December 2016, 25th January 2017 and 10th February 2017, by invoking the provisions of Section 77(A) of the Maharashtra Cooperative Societies Act, 1960

has appointed an Administrator to govern the affairs of the Ekta Cooperative Housing Society Ltd (Society).

5] It is the case of the petitioners that such orders were made without afford of opportunity of hearing to the petitioners and further, the complainant, at whose behest such orders came to be made, has himself been appointed as an Administrator. It is also the case of the petitioners that the complainant is himself a defaulter and therefore, in any event, was not suitable to be appointed as an Administrator.

6] The petitioners instituted Appeal No. 52 of 2017 before the Divisional Joint Registrar, Cooperative Societies in order to question the aforesaid orders. On 15th March 2017, the Divisional Joint Registrar ordered notices to the respondents and directed the parties to maintain *status quo*. The Divisional Joint Registrar has however, dismissed the appeal by order dated 28th June 2017. Mr. Shetye, learned counsel for the petitioners, submits that the petitioners have already instituted a revision petition before the State Government at Exhibit-K to the petition. The revision application is pending, however, the petitioners are unable to have access to the Hon'ble

Minister, Revisional Authority on account of on going legislative assembly session. Mr. Shetye submits that in the interest of justice the *status quo* order granted by the Divisional Joint Registrar on 15th March 2017 (Exhibit-G at page 76) may be extended until the revision petition instituted by the petitioners is disposed of by the Revisional Authority.

7] It is not possible to accede to Mr. Shetye's request in its entirety. Learned AGP has stated that the assembly session is due to complete on 16th August 2017. This means that at least thereafter, the petitioners will have an opportunity to move the Revisional Authority and apply for appropriate interim reliefs. Some protection, however, is due particularly considering the fact that such protection had been granted by the Divisional Joint Registrar during pendency of the appeal.

8] Accordingly, the *status quo* order granted by the Divisional Joint Registrar on 15th March 2017 is directed to operate until 8th September 2017. This shall be subject to further condition that such of petitioners who have not been disqualified and who claim to be in management of the society shall not take any major policy decisions

involving the finances of the society or otherwise. This position shall continue up to 8th September 2017, unless, in the meanwhile, the petitioners, after notice to all the respondents obtain appropriate interim reliefs from the Revisional Authority.

9] The petitioners are directed to give notice to the respondents in the revision application before they move the Revisional Authority for obtaining interim reliefs.

10] It is made clear that this Court has not examined the merits of the matter and all contentions of all the parties are kept open to be determined by the Revisional Authority.

11] With aforesaid observations and directions, this petition is disposed of.

12] All concerned to act on the basis of authenticated copy of this order.

(M. S. SONAK, J.)