

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3190/2016

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. Prasad Dani, Senior Advocate a/w. Ms. Viloma Shah, Mr. Ameya Deosthale and Mr. Dhiren Durante i/b. M/s. Hariani & Co. for the Petitioner
Mr. H. B. Takke, AGP for respondent Nos.1, 2 and 6
Mr. G. S. Godbole a/w. Mr. Advait Sethna, Mr. Parvaz Cazi i/b. Dipti Shah for the Respondent Nos.3 to 5.

CORAM : K. K. TATED, J.

DATE : FEBRUARY 24, 2017

P.C.:

1. Heard. By this petition under Article 226 and 227 of the Constitution of India the Petitioner challenges the order dated 30.08.2014 passed by the Dy. Registrar, Cooperative Societies, "D" Ward in application No.1237/2012 u/s. 101 of the Maharashtra Cooperative Societies Act, 1960 (said Act) and order dated 24.10.2016 passed by the Dist. Dy. Registrar in application No.11/2016 directing the petitioner to pay a sum of Rs.7,15,60,653/- to the respondent society.

2. Both the counsel submit that though the Assistant Registrar, in his order dated 30.08.2014 recorded that the Auditor has submitted his Report

dated 18.06.2014 after hearing both sides, same is not correct. They submits that neither the petitioner nor the respondent appeared before the Auditor and/or they have received any copy of the same before passing the impugned order dated 30.08.2014. Both the parties admit that the entire impugned order dated 30.08.2014 passed by the Assistant Registrar is mainly based on the Auditor's Report dated 18.06.2014. In view of these facts, by consent of the parties, following order is passed:

- a. Order dated 30.08.2014 passed by the Dy. Registrar, Cooperative Societies, "D" Ward in application No.1237/2012 u/s. 101 of the said Act is set aside.
- b. Order dated 24.10.2016 passed by the Dist. Dy. Registrar in Revision Application No.11/2015 is set aside.
- c. The matter is remanded to the Dist. Dy. Registrar, Cooperative Societies, "D" Ward for hearing of application No.1237/2012 u/s. 101 of the said Act on its own merits, after giving opportunity to both the sides to file their additional affidavit, documents, if any.
- d. Both the parties to remain present before the Dy. Registrar, Cooperative Societies, "D" Ward on

06.03.2017 and file their additional pleadings, if any, with copy to other side.

e. The Dy. Registrar, Cooperative Societies, “D” Ward to dispose of the application bearing No.1237/2011 as early as possible but in any case on or before 31.05.2017 after hearing both the parties.

f. All contentions of the parties on merits are kept open.

g. The sum of Rs.1,53,73,058/- withdrawn by the respondent society as per order dated 20.12.2016 passed by this court shall be adjusted as per the final order passed by the Dist. Dy. Registrar in application No.1237/2012.

h. Writ Petition stands disposed of accordingly.

JUDGE