

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 1762 OF 2016

SUNIL GANGADHAR MUNDLIK AND OTHERS
VERSUS
KARMAYOGI MURLIDHAR KHATO JANLAXMI GRAMIN BIGAR SHETI
SAHAKARI PATSANSTHA AND OTHERS.

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Advocate for the Petitioners : Shri Shelke Shivaji T..

Advocate for Respondent 1 : Shri V.D.Sapkal.

AGP for Respondents 2 to 4 : Shri S.K.Tambe.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 17th January, 2018

Per Court :

1 The learned Advocate for the Petitioners makes a statement that he is not pressing the second part of the relief sought in prayer clause (B) and as such, is restricting this petition only to the extent of seeking quashing of the order dated 20.01.2016 passed by Respondent No.4 in Revision No.564/2012.

2 As such, the reliefs prayed by the Petitioners in prayer clauses (A) and (B) would read as under:-

"(A) *Hold and declare that Revision No.564/2012 filed by respondent No.1 before respondent No.4 is not maintainable.*

(B) *Quash and set aside the order dated 20.01.2016 passed by Respondent No.4 in Revision No.564/2012 at Exhibit F"*

3 The Petitioners had sought membership with Respondent No.1/ Society. Since they were denied the membership, they had approached Respondent No.2/ Assistant Registrar, Cooperative Societies, Taluka Shrirampur by preferring Appeal No.5/2011. It was prayed that they should be granted the membership of the Society. By order dated 08.11.2011, Appeal No.5/2011 was allowed.

4 Respondent No.1/ Society preferred the Revision Application under Section 154 of the Maharashtra Cooperative Societies Act, 1960 bearing Revision Application No.82/2011 before the Divisional Joint Registrar, Cooperative Societies. By order dated 27.06.2012, the revision was dismissed.

5 Being aggrieved, Respondent No.1 Society preferred the second revision before the Honourable Minister in Application RVA-2012-PK- 564/15/ S. By the impugned order dated 20.01.2016, the Honourable Minister granted ad-interim stay to the orders of the Authorities and as such, the Petitioners were not allowed to be members of Respondent No.1 Society.

6 This Court, by a speaking order dated 11.02.2016, considered the law laid down by the Full Bench of this Court in the matter of Shireen Sami Gadiali and another vs. Spenta Cooperative Housing Society Limited and others, 2011 (3) Mh.L.J. 486, and prima facie, concluded that the second revision as against the order passed by the Divisional Joint

Registrar under Section 154 was not maintainable before the State. The interlocutory order passed by the Honourable Minister dated 20.01.2016 was, thus, stayed.

7 The learned Advocate for Respondent No.1/ Society specifically brings to the notice of this Court the subsequent events that have occurred. He submits that by communications dated 12.05.2016 to all the aggrieved Petitioners, the Society had called upon them to come forward for filling up the forms, making payment of requisite fees and complete the formalities which include Know Your Customer (KYC) and linking of necessary documents so as to grant the membership to the Petitioners. He, therefore, reiterates that even today, if the requirements for becoming the members in response to the communications dated 12.05.2016 are complied with within a reasonable period of two months, Respondent No.1/ Society would not hesitate to grant membership to such members, obviously if there is no other legal impediment.

8 The learned Advocate for the Petitioners submits that they have never tried to avoid completing the formalities and in view of the orders in their favour dated 08.11.2011 and 27.06.2012 passed by the concerned Authorities, they can become members after completing the formalities. He, however, reiterates that this petition has been filed as the second revision is not maintainable and hence, he prays that the petition be allowed.

9 Considering the above and in the light of the law laid down by the Full Bench of this Court in Shireen Sami (supra), the second revision preferred by Respondent No.1/ Society before the Honourable Minister would not be maintainable. This Writ Petition is, therefore, allowed. The impugned order dated 20.01.2016 and the pending proceedings before the Honourable Minister stand quashed and set aside.

10 Needless to state, this Court has not expressed any opinion as regards the grant of membership to the Petitioners.

kps

(RAVINDRA V. GHUGE, J.)