

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

REVIEW APPLICATION (CIVIL) NO. 90 OF 2014
IN
LETTERS PATENT APPEAL NO. 142 OF 2012
IN
WRIT PETITION NO. 4415 OF 2011

Shaukatkhan s/o. Ahmedkhan Pathan

....Applicant.

Versus

The State of Maharashtra and Ors.

....Respondents.

Mr. Pradeep Deshmukh h/f. Mr. Y.P. Deshmukh, Advocate for applicant.

Mr. P.G. Borade, AGP for respondent Nos. 1 to 3.

Mr. S.R. Deshpande, Advocate for respondent Nos. 4 & 5.

Mr. K.B. Deshpande, Advocate for respondent No. 6.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.**

DATED : APRIL 11, 2018.

ORDER : [PER T.V. NALAWADE, J.]

1. The Letters Patent Appeal was filed to challenge the decision given by the learned Single Judge of this Court in Writ Petition No. 4415/2011. The Writ Petition was filed by the present applicant, appellant to challenge the order made by the learned Joint Registrar, Co-operative Societies, Nashik Division, Nashik. The revision filed before the Joint Registrar by the present applicant to challenge the certificate issued under section 101 of Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as 'the Act' for short) is not entertained as there was no compliance of provision of section 154 (2A) of the Act. Under that provision, the petitioner is required to

deposit 50% of the amount mentioned in the certificate.

2. The submissions made and the record show that in the past also, the order of dismissal of revision was made by the Joint Registrar, but on that occasion, there was no specific order that there was no compliance of provision of section 154 (2A) of the Act. It was held that the Divisional Joint Registrar has no jurisdiction to entertain the matter and there were the provisions of Multi-State Co-operative Societies Act. In Writ Petition No. 7467/2006 which was filed by the present applicant, this Court had given direction to the Joint Registrar to decide the matter on merits by presuming that he has the jurisdiction to consider the challenge against the certificate issued under section 101 of the Act.

3. It appears that in Writ Petition, this Court had given opportunity to the applicant/petitioner for getting some relief of interim nature and he was directed to deposit Rs.2,00,000/- for getting that relief. The applicant avoided to deposit that amount. When the second decision given by the Joint Registrar was challenged in Writ Petition No. 4415/2011, the learned Single Judge of this Court considered the circumstance that the learned Single Judge had held that no interference is warranted in the matter. In LPA all the contentions made in respect of aforesaid circumstances are considered

and the provision which is referred by the learned Joint Registrar is also considered. When a submission was made in LPA that the present applicant was now ready to deposit the amount, opportunity was given by this Court to deposit the amount and comply the condition on or before 31.1.2014. This Court had refused to interfere in the order made by the learned Single Judge. Further, direction was given to pay Rs.10,000/- as cost of the appeal. Only when this Court gave direction to the present applicant to deposit atleast Rs.10,000/- as directed in LPA, the amount came to be deposited. Instead of complying the directions given by this Court in LPA by order dated 22.1.2014, the appellant preferred to file review application. All these circumstances show that the applicant is not ready to comply the conditions mentioned in aforesaid provision. The learned counsel for applicant made submissions of other nature to inform the grievance of the applicant. Those contentions cannot be considered in the proceeding like present one, review application. In view of nature of the order made by this Court in LPA and as the applicant could not have taken the decision of revision on merits without complying the aforesaid condition, this Court holds that review of the order made by this Court is not possible. In the result, the review application stands rejected.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]