

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

WRIT PETITION NO. 9178 OF 2017

Shaikh Dawood Ahemad Babasaheb

... Petitioner

VERSUS

The State of Maharashtra

... Respondent

.....
Mr U. M. Indani, Advocate for the petitioner
Mr P. S. Patil, AGP for respondent/State
Mr S. D. Kotkar, Advocate for respondent No. 4
.....

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 15TH JANUARY, 2018.

ORDER:

1. The application filed by the petitioner u/s 107 of the Maharashtra Cooperative Societies Act, 1960 (in short "MCS Act") seeking permission/leave to institute the suit is rejected.

2. We have heard Mr U. M. Indani, learned counsel for the petitioner, learned AGP for respondents No. 1 to 3 and Mr. Kotkar, learned counsel for respondent No. 4.

3. It is not disputed that the society of which the petitioner was a member has gone in liquidation. The petitioner is challenging the sale deeds and the resolution passed.

4. The petitioner had approached this Court earlier against the rejection of his application on the ground that it does not disclose the right to file proceedings. This court under its order dt.05.01.2016 in Writ Petition No. 389 of 2013 had disposed of writ petition granting liberty to the petitioner to file fresh application. The petitioner thereafter filed fresh application. We have perused the application. No doubt, the application could have been more specific, however, the contents of the application disclose as to the challenge which the petitioner wants to raise before the court. The said application is rejected. We do not find the reasons given by the Registrar while rejecting the application to be cogent. The sale deeds are executed in the year 2010-11. On the ground that the appeal filed by the petitioner is *sub judice* before the Cooperative Court against the interim order, the application could not have been rejected.

5. It would be another thing as to whether the proceedings filed by the petitioner are maintainable without the permission and whether post-facto permission can be granted, the same can be

agitated by respondent before the appropriate cooperative court. However, there was no reason not to grant permission to the petitioner to prosecute the proceedings. Section 107 of MCS Act bars the jurisdiction of the court from taking cognizance of any matter connected with the winding up or dissolution of a society except by leave of the Registrar and subject to such terms as he may impose.

6. The Registrar ought to have granted permission. He could have imposed some terms as he may have deemed fit.

7. Considering the above, the impugned order is quashed and set aside. The concerned authority shall grant permission to the petitioner to institute/continue the proceedings as sought, upon such terms as he may deem fit, within a period of six weeks from today.

8. The writ petition stands disposed. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde