

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1048 OF 2015

Shishir Durgadas Dhavle

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Bhavesh Parmar i/b Devmani Shukla for the Petitioner.

Mr. S.H. Kankal, AGP for the Respondent Nos. 1 & 2.

Mr. D.S. Mhaispurkar for Respondent No.4.

CORAM : R.D. DHANUKA, J.

DATE : 18th JUNE, 2018

P.C.:

. By an Order dated 18.08.2017 passed by this Court, this Court has recorded the statement made by the learned AGP that the Government has directed the Divisional Joint Registrar, Co-operative Societies of Konkan Division to conduct an enquiry into the matter and to submit the report to the Government insofar as the conduct of the learned Deputy Registrar in issuing the recovery certificate on two different dates is concerned.

2 Pursuant to the Order passed by the Deputy Registrar, Co-operative Societies has filed an affidavit stating that in the preliminary report submitted by the Divisional Joint Registrar, he has found that there was no double certificate issued in other cases. The concerned Deputy Registrar has been already transferred to some other department. The Government has already proposed an

enquiry against the concerned Deputy Registrar.

3 Learned Counsel for the Respondent No.4 on instructions states that in view of this controversy his client has no objection, if the impugned Recovery Certificate dated 04.12.2014 is set aside and the matter is remanded back to the learned Deputy Registrar who is assigned this matter. Statement is accepted.

4 By consent of parties, the impugned Recovery Certificate dated 04.12.2014 is set aside. The application filed by the Respondent No.4 under Section 101 of the Maharashtra Co-operative Societies Act, is restored to file before the learned Deputy Registrar for passing a fresh order in accordance with law and after compliance of principle of natural justice.

5 Petitioner would be at liberty to file a reply before the Deputy Registrar within two weeks from today and shall serve a copy thereof to Respondent No.4 simultaneously.

6 Learned Deputy Registrar shall decide the matter afresh in accordance with law and without being influenced by the observation made and conclusion drawn in the impugned Recovery Certificate dated 04.12.2014. The Petitioner as well as Respondent No.4 to remain present before the Deputy Registrar, Dombivali (E) on 18.07.2018 at 3.00 p.m.

7 Learned Deputy Registrar shall dispose off the said proceedings within two months from the first date of the pleadings. No parties shall ask any unnecessary adjournment before the learned Deputy Registrar.

8 It is made clear that this Court has not expressed any view on the merits of the matter.

9 All contentions of both the parties are kept open.

10 Insofar as, the enquiry by the State Government against the concerned Deputy Registrar is concerned, the State Government shall take appropriate action against the concerned Deputy Registrar, if he is found guilty upon completion of such enquiry and in accordance with law.

11 Writ Petition is disposed off with the aforesaid terms. No order as to costs.

12 Parties to act on an authenticated copy of this order.

(R.D. DHANUKA, J.)