

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

WRIT PETITION NO.1384 OF 2017

Anand Abasaheb Hawaldar

.. Petitioner

Vs.

Divisional Joint Registrar

Co-operative Societies & Ors.

.. Respondents

Mr.Amit Borkar for the petitioner.

Mr.S.D. Rayrikar, AGP for the respondent nos.1, 2 & 5.

Mr.Ashutosh Gole for the respondent no.4.

CORAM : R.D. DHANUKA, J.

DATE : 20th June 2018

P.C.:

. Learned counsel for the petitioner states that all the respondents are served. The respondent no.3 has been served by private notice. Statement is accepted.

2. Rule. Learned AGP waives service for the respondent nos.1, 2 & 5. Mr.Gole waives service for the respondent no.4. By consent of parties who are present in Court, matter is heard finally at the admission stage.

3. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 18th February 2016 passed by the Minister of Co-operation exercising powers purported to have been granted under Section 154 of the Maharashtra Co-operative Societies Act, 1960. It is not in dispute that before the learned Minister,

the respondent no.4 had impugned the order passed by the learned Divisional Joint Registrar under Section 154 of the said Act. The second revision application was thus not maintainable before the learned Minister.

4. Mr.Borkar, learned counsel for the petitioner invited my attention to the judgment of Full Bench of this Court in the case of ***Shireen Sami Gadiali & Anr. Vs. Spenta Co-op. Hsg. Soc. Ltd. & Ors., reported in 2011 (3) Mh.L.J. 486*** and would submit that the second revision application under Section 154 of the said Act was not maintainable.

5. In my view, the principles of law laid down in the said judgment of the full bench of this Court would squarely apply to the facts of this case. Admittedly, the order passed by the Divisional Joint Registrar under Section 154 of the said Act which was impugned before the learned Minister was itself passed by exercising the revisional jurisdiction by the Divisional Joint Registrar. The second revision application under the said order was thus not maintainable. Learned Minister has, in my view, exceeded his jurisdiction by entertaining the second revision application under Section 154 of the said Act. The impugned order thus passed by the learned Minister on 18th February 2016 is quashed and set aside. The Second Revision Application No.RVA-2015/P.K.752/15S filed by the respondent no.4 is dismissed.

6. Rule is made absolute in aforesaid terms. No order as to costs. It is made clear that if the respondent no.4 has any other remedy available in law, the respondent no.4 is at liberty to adopt such remedy. If

any such proceedings are filed by the respondent no.4, an appropriate Court or authority shall decide the same on its own merit.

R.D. DHANUKA, J.