

Anand

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

**WRIT PETITION NO. 5522 OF 2018**

|                                                                         |              |
|-------------------------------------------------------------------------|--------------|
| Hanumant Anna Shinde & ors.                                             | .Petitioners |
| Vs.                                                                     |              |
| The Divisional Joint Registrar, Co-operative Societies, Kolhapur & ors. | .Respondents |

Mr. D. H. Pawar, Advocate, for the Petitioners in all matters  
Mr. S. D. Rayarikar, AGP, for the Respondent - State  
Mr. D. D. Rananaware, Advocate, for the Respondent No. 3

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 18.09.2018**

**P.C.**

. Heard learned counsel for the parties.

2. Rule. Rule is made, returnable forthwith with the consent of the parties and is taken up for final disposal at the stage of admission.

3. The principal grievance of the Petitioners in the aforesaid Petition is that although they were parties to the proceedings before the Assistant Registrar, Co-operative Societies, Vaduj, Taluka – Khatav, the Respondent No. 3 did not arraign

them as party Respondents in the proceedings filed by the Respondent No. 3 before the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur.

4. In view of the aforesaid, on the last date i. e. on 11.09.2018, the learned AGP was asked to take instructions. Learned AGP on instructions informs that the Respondent No. 3 had not impleaded the Petitioners as party Respondents in the proceedings filed by the Respondent No. 3, before the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur. He also states that it is on the Petitioners' Application that the Assistant Registrar, Co-operative Societies had passed an Order dated 23.06.2017, which was challenged by the Respondent No. 3 before the Divisional Joint Registrar, Co-operative Society, Kolhapur.

5. Learned counsel for the Respondent No. 3 vehemently opposed the Petition. He submits that no interference was warranted in the impugned Order dated 22.01.2018 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur

Division, Kolhapur. He submits that there was no requirement to implead the Petitioners as party Respondents in the proceedings filed by the Respondent No. 3 before the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur. He submitted that the Divisional Joint Registrar was pleased to allow the Revision Application, as the forms filled in by the Petitioners were incomplete.

6. Perused the papers. It appears that the Petitioners had applied to the Society i. e. Respondent No. 3 for seeking membership of the said Society, however, the same was rejected by the Society. The Petitioners, therefore, filed an Application before the Assistant Registrar, praying that the Respondent No. 3 - Society be directed to accept their membership. It appears that the Assistant Registrar after hearing the Petitioners and the Respondent No. 3 allowed the Petitioners' Application on 23.06.2017. The said order passed by the Assistant Registrar on 23.06.2017 was challenged by the Respondent No. 3 – Society before the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur by way of a Revision Application,

being Revision No. 202 of 2017. Admittedly, the Petitioners were not impleaded as party Respondents in the said Revision Application filed by the Respondent No. 3 – Society. The Divisional Joint Registrar passed the impugned order dated 22.01.2018 allowed the said Revision Application and as such set aside the order dated 23.06.2017 passed by the Assistant Registrar. As noted earlier, the Respondent No. 3 – Society had not impleaded the Petitioners as party Respondents in the proceedings filed by the Respondent No. 3 before the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur. The principles of natural justice require that the Petitioners not only ought to have been impleaded as party Respondents but also ought to have been heard, since the order dated 23.06.2017 passed by the Assistant Registrar, on their Application was in their favour. Learned AGP also does not dispute the fact, that the Petitioners were not impleaded as party Respondents by the Respondent No. 3 – Society in the proceedings filed by the Respondent No.3 before the Divisional Joint Registrar, despite the fact, that they were before the Assistant Registrar and the order dated 23.06.2017 was passed in

the Petitioners favour.

7. Considering the aforesaid, it would be appropriate to quash & set aside the order dated 22.01.2018 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur below Revision Application No. 202 of 2017 and remand the matter back to the Divisional Joint Registrar for fresh consideration. The Revision Application is accordingly, restored back to its original file. The Respondent No. 3 to implead the Petitioners as party Respondents in the said proceeding. The Divisional Joint Registrar shall also hear the Petitioners and pass appropriate orders on the said Revision Application. All contentions of both the parties are kept open. It is made clear, that this Court has not gone into the merits of the said order. All parties to appear before the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur on 03.10.2018 at 11.00 a. m. after which the Divisional Joint Registrar will give dates convenient to him. The learned Divisional Joint Registrar is requested to hear the parties and pass appropriate orders on the said Revision Application as expeditiously as possible and

preferably before 15.12.2018.

8. Since the matter is remanded back to the learned Divisional Joint Registrar for fresh consideration, it would be appropriate to direct the learned Divisional Joint Registrar to consider the Application of Respondent No. 3, if filed, for stay of the order dated 23.06.2017, passed by the Assistant Registrar on its own merits, in accordance with law.

9. Rule is made absolute in the aforesaid terms and is accordingly disposed off.

All concerned to act on the authenticated copy of this order.

**(REVATI MOHITE DERE, J.)**