

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

WRIT PETITION NO.8450 OF 2017

Ashok Ganpat Govale & Anr.	.. Petitioners
Vs.	
State of Maharashtra & Ors.	.. Respondents

Mr.Vijay S. Kurlle for the petitioners.

Ms.Geeta Sonawane, AGP for the respondent no.1-State.

Mr.Shilpan Gaonkar a/w Mr.Sagar Pawar, Mr.Sagar Dusane and
Mr.Avishkar Sawant i/by M/s.S.K. Legal Assocites for the respondent
nos.2 & 3.

CORAM : R.D. DHANUKA, J.

DATE : 12th June 2018

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 2nd February 2017 passed by the learned Minister Co-operation allowing the revision application filed under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (for short “the MCS Act”). The Registrar, Co-operation, Pune has passed an order of interim liquidation of the respondent no.4. Learned Minister has exercised the powers under Section 154 of the MCS Act and has set aside the said order.

2. Learned counsel appearing for the petitioners states that the learned Minister could not have exercised the powers under Section 154 of the MCS Act against the order passed by the learned Registrar under Section 102(1) of the MCS Act. He submits that since the appeal against the order passed by the learned Registrar under Section 102 of

the MCS Act is maintainable, the powers under Section 154 of the MCS Act thus could not have exercised by the State Government. The next submission of the learned counsel for the petitioner is that large number of depositors would be affected if the impugned order is not set aside.

3. The submissions of the learned counsel for the petitioner are strongly opposed by the learned counsel for the respondent nos.2 & 3 on the ground that since the order passed by the learned Registrar under Section 102 was not appealable under Section 104 of the MCS Act, the powers could be exercised by the learned Minister under Section 154 of the MCS Act. He submits that the liquidator has already taken the charge of the affairs of the respondent no.4 Society and various steps are already taken.

4. In so far as the the powers exercised by the learned Minister under Section 154 of the MCS Act are concerned, a perusal of the impugned order passed by the learned Registrar clearly indicates that the said order is not a final order of winding up passed by the learned authority under Section 104 of the MCS Act. Appeal under Section 104 of MCS Act is maintainable against the final order and not against the interim order. Under Section 154 of the MCS Act, the learned Minister has revisionary powers either suo motu or on an application and may call for and examine the record of any inquiry or proceedings of any matter, other than those referred to in sub-section (9) of section 149, where any decision or order has been passed by any sub ordinate officer, and no appeal lies against such decision or order for the purpose of satisfying themselves as to the legality or propriety of any such decision or order.

5. In my view, the order passed by the learned Registrar under Section 102 is not appealable under Section 104 of the MCS Act or any other provisions of the MCS Act. The revisionary powers thus could be exercised under Section 154 of the MCS Act by the State Government or by the Registrar against an order passed under Section 102 of the MCS Act. There is thus no substance in the submission of the learned counsel for the petitioner that the powers exercised by the learned Minister under Section 154 of the MCS Act were without jurisdiction.

5. A perusal of the record indicates that the learned liquidator has already taken a charge of the affairs of the respondent no.4 society. The respondent no.4 could not be revived by any of the members or by Board of Directors. The impugned order passed by the learned Minister is a reasoned order. The findings rendered by the learned Minister are not perverse and thus this Court cannot interfere with the impugned order under Article 227 of the Constitution of India. The petition is devoid of merit and is accordingly dismissed. No order as to costs. Ad-interim order passed by this Court stands vacated.

R.D. DHANUKA, J.