

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

WRIT PETITION (ST.) NO.16691 OF 2018

Shyam Vihar CHS Ltd.	..	Petitioner
Vs.		
The State of Maharashtra & Ors.	..	Respondents

**along with
CIVIL APPLICATION NO.1410 of 2018
IN
WRIT PETITION (ST.) NO.16691 OF 2018**

Vijay Mohan Ahuja	..	Applicant
In the matter between		
Shyam Vihar CHS Ltd.	..	Petitioner
Vs.		
The State of Maharashtra & Ors.	..	Respondents

Mr.Akshay Deshmukh for the petitioner.
Ms.Veena Advani for the applicant in civil application.
Mr.S.H.Kankal, AGP for the respondent no.1.
Mr.Rupin Vakil a/w Ms.Nupur Desai i/by M/s.Makrand Gandhi & Co.
for the respondent nos.4 & 5.

CORAM : R.D. DHANUKA, J.
DATE : 20th July 2018

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 25th May 2018 passed by the learned Divisional Joint Registrar of Co-operative Societies rejecting the stay application in the revision application bearing No.78 of 2018 filed by the petitioner under Section 154 of the Maharashtra Co-operative Societies Act, 1960.

2. It is not in dispute that the said revision application filed by the petitioner society is pending and is adjourned for hearing on 27th August 2018 at 12 noon by the learned Divisional Joint Registrar, Co-operative Societies, Mumbai.

3. A perusal of the record prima facie indicates that the interpleader suit filed by the petitioner against the respondent nos.4 and 5 is pending before the City Civil Court at Bombay in respect of the flat in question. The applicant in Civil Application No.1410 of 2018 has also claimed certain alleged rights in respect of the property in question.

4. In my view, interest of justice would be met with if the revision application filed by the society itself is heard as indicated in the impugned order by the learned Divisional Joint Registrar on its own merit. The learned Divisional Joint Registrar has rejected the stay application filed by the petitioner. In my prima facie view, the petitioner has made out a case for grant of interim relief before the learned Divisional Joint Registrar in the revision application filed by the petitioner in view of rival claims of the petitioner.

5. I therefore pass the following order :-

- (i) The impugned order dated 25th May 2018 passed by the Divisional Joint Registrar rejecting the stay application is set aside.
- (ii) The Divisional Joint Registrar, Co-operative Societies, Mumbai is directed to dispose of the revision application bearing No.78 of 2018 filed by the petitioner under Section 154 of the Maharashtra Co-operative Societies Act, 1960 expeditiously and not later than

three months from the date of first hearing which is proposed to be held on 27th August 2018 without being influenced by the observations made and the conclusions drawn in the impugned order dated 25th May 2018 and on its own merit and in accordance with law after hearing the petitioner as well as the respondent nos.4 and 5.

- (iii) The learned Divisional Joint Registrar shall also hear the applicant in Civil Application No.1410 of 2018 before passing any final order on the revision application filed by the petitioner.
- (iv) During the pendency of the revision application filed by the petitioner before the learned Divisional Joint Registrar, the impugned order passed by the Deputy Registrar Co-operative Society, H/W Ward at Mumbai under Section 22(2) of the Maharashtra Co-operative Societies Act, 1960 and for a period of two weeks from the communication of the order that may be passed by the learned Divisional Joint Registrar to the petitioner if the same is adverse against the petitioner shall remain stayed.
- (v) None of the parties shall take unnecessary adjournment before the learned Divisional Joint Registrar, Co-operative Societies, Mumbai.
- (vi) Writ petition is disposed of in aforesaid terms. In view of disposal of the writ petition, civil application does not survive and is accordingly disposed of. No order as to costs.
- (vii) Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.