

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

WRIT PETITION (ST.) NO.19103 OF 2018

Dr.Mohammed Shareef Khan & Ors.

.. Petitioners

Vs.

The Deputy Registrar of Co-operative
Hsg. Societies Ltd. & Ors.

.. Respondents

Mr.Piyush Shah a/w Mr.Dishang Shah & Ms.Meetal Savla for the
petitioners.

Ms.Kavita Solunke, AGP for the respondent no.1 to 3.

Mr.Swapnil Mohite i/by Mr.Deven Jagdeo for the respondent nos.12
and 13.

CORAM : R.D. DHANUKA, J.

DATE : 10th July 2018

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 31st March 2018 passed by the Divisional Joint Registrar of Co-operative Societies, Mumbai refusing to grant stay in favour of the petitioners while admitting the Appeal No.49 of 2018 filed by the petitioners.

2. The petitioners had impugned the order passed by the Deputy Registrar, Co-operative Societies, Mumbai under Sections 77(a) (2), 73 I (2) and 76 (2) of the Maharashtra Co-operative Societies Act, 1960 thereby appointing an Administrator of My Home Co-operative Society Ltd. and disqualifying the petitioners from contesting the election for the period of 5 years on various grounds.

3. It is not in dispute that the appeal filed by the petitioners is pending before the Divisional Joint Registrar of Co-operative Societies, Mumbai. The tenure of the erstwhile committee had expired on 18th September 2017. Since the contesting respondents are seriously opposing the appeal filed by the petitioners before the Divisional Joint Registrar of Co-operative Societies on the issue of disqualification and on the appointment of an Administrator by the Deputy Registrar Co-operative Society, it would be in the interest of justice that the appeal bearing No.49 of 2018 filed by the petitioners shall be itself decided by the Divisional Joint Registrar of Co-operative Societies on its own merit and till such time, the impugned order passed by the Deputy Registrar is stayed.

4. Learned counsel appearing for the respondent nos.12 and 13, on instructions, states that his clients have no objection if the appeal proceedings are heard by the Divisional Joint Registrar of Co-operative Societies expeditiously and till such time, the order of appointment of an Administrator and disqualification of the petitioners is stayed. Statement is accepted.

5. I therefore pass the following order : -

- (i) The impugned order dated 31st March 2018 passed by the Divisional Joint Registrar of Co-operative Societies, Mumbai refusing to grant stay in favour of the petitioners is accordingly set aside.
- (ii) The Divisional Joint Registrar of Co-operative Societies shall hear and dispose of the appeal bearing No.49 of 2018 on its own merit without being influenced by the observations made in the impugned order dated 31st March 2018.

- (iii) None of the parties shall seek any unnecessary adjournment before the Divisional Joint Registrar of Co-operative Societies.
- (iv) Learned Divisional Joint Registrar of Co-operative Societies, Mumbai shall make an endeavour to dispose of the said appeal within two months from the date of first hearing.
- (v) The impugned order passed by the learned Deputy Registrar shall remain stayed during the pendency of the said appeal before the Divisional Joint Registrar of Co-operative Societies, Mumbai and for a period of two weeks from the date of communication of the order to the petitioners if the same is adverse against the petitioners.
- (vi) It is made clear that the petitioners shall not take any policy decision during the pendency of the appeal before the Divisional Joint Registrar of Co-operative Societies, Mumbai and for a period of two weeks thereafter. The petitioners however would be permitted to conduct day to day affairs of the society during this period.
- (vii) Parties are directed to appear before the Divisional Joint Registrar of Co-operative Societies, Mumbai on 24th July 2018 at 11 a.m.
- (viii) If the date fixed by this Court is not convenient to the learned Divisional Joint Registrar of Co-operative Societies, Mumbai, the learned Divisional Joint Registrar of Co-operative Societies shall convey the earliest convenient date to both the parties in advance.
- (ix) The learned Divisional Joint Registrar of Co-operative Societies, Mumbai shall pass an order after hearing both the parties in the manner as directed aforesaid.

- (x) Writ petition is disposed of in aforesaid term. There shall be no order as to costs.
- (xi) It is made clear that this Court has not expressed any views on merit of the appeal filed by the petitioners.
- (xii) All contentions of the parties on merit are kept open.
- (xiii) In view of the fact that the order of the Deputy Registrar is stayed by this Court in this petition, the question of holding of any election by the learned Administrator tomorrow or during the pendency of the appeal before the Divisional Joint Registrar of Co-operative Societies, Mumbai does not arise.
- (xiv) Learned AGP is directed to convey this order to the learned Administrator appointed by the learned Deputy Registrar for compliance.

R.D. DHANUKA, J.