

Anand

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

**WRIT PETITION (ST) NO. 19550 OF 2018
WITH
CIVIL APPLICATION NO. 1789 OF 2018
IN
WRIT PETITION (ST) NO. 19550 OF 2018**

Riddhi Apartment Co-operative Housing Society .Petitioner
Ltd.

Vs.

The State of Maharashtra & ors. .Respondents

Mr. Shreepad Murthy a/w Ms Swati Parag Gautam, Advocate, for
the Petitioner

Mr. S. D. Rayarikar, AGP, for the Respondent Nos. 1 & 2 – State

Mr. A. K. M. Bagla, Advocate, for the Respondent No. 3

CORAM : REVATI MOHITE DERE, J.

DATE : 11.09.2018

P.C.

. At the outset, learned counsel for the Petitioner seeks
leave to amend the prayer clause. Leave granted. Amendment to
be carried out forthwith.

2. Heard learned counsel for the Petitioner.

3. By this Petition, the Petitioner has impugned the Order dated 10.05.2018 passed by the Divisional Joint Registrar (Respondent No. 2) as well as the Order dated 27.11.2015 passed by the Assistant Registrar, Co-operative Society, P Ward, Mumbai.

4. The principal grievance of the learned counsel for the Petitioner is that no notice was served on the Petitioner in the proceeding before the Deputy Registrar, as a result of which the Petitioner was unaware of the proceeding and could not participate in the same, leading to the impugned order being passed by the Assistant Registrar dated 27.11.2015, which was subsequently confirmed by the Divisional Joint Registrar vide Order dated 10.05.2018.

5. In view of the submissions advanced by the learned counsel for the Petitioner, learned AGP was asked to produce the records of the said case to ascertain whether notice was served on the Petitioner. Learned AGP states that notice was issued by the

office of the Deputy Registrar to the Petitioner on 09.09.2015, however, there is no document to show that the said notice was received by the Petitioner / served on the Petitioner.

6. Considering the aforesaid, the observations made by the Deputy Registrar in the Order dated 27.11.2015 cannot be sustained, that the Petitioner was absent on several dates, as a result of which he was constrained to proceed with the said case. Considering the fact, that no notice was served on the Petitioner, the impugned Order dated 27.11.2015 passed by the Assistant Registrar as well as the Order dated 10.05.2018 passed by the Divisional Joint Registrar would have to be quashed & set aside. Accordingly, the said Orders are quashed & set aside and the matter is remanded back to the Assistant Registrar, Co-operative Society, P Ward, Mumbai. The proceeding before the Assistant Registrar is restored back to its original file. All parties to remain present before the Assistant Registrar on 24.09.2018 after which the Assistant Registrar will give dates convenient to him. All contentions of all parties are kept open. Since the proceedings are of the year 2015, the Assistant Registrar shall decide the same as

expeditiously as possible and in any event within four months from the date of receipt of this order. The Petitioner to file his reply at the earliest and in any event on or before 30.09.2018.

7. The Petition is disposed off in the aforesaid terms.

8. It is made clear, that this Petition has not been heard on merits. All contentions of all parties are kept open.

9. In view of disposal of the Writ Petition, the Civil Application, being C. A. No. 1789 of 2018 does not survive and same stands disposed off accordingly.

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

(REVATI MOHITE DERE, J.)