

Sequeira

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

WRIT PETITION NO. 7869 OF 2018

Rajendra Pundlikrao Deore and others ... Petitioners.

V/s.

The State of Maharashtra and others ... Respondents.

Mr.Atul Damle, Senior Advocate a/w Mr.Avinash H.Fatangare,
Mr.P.N.Joshi i/b Prashant Jadhav, for Petitioners.

Mr.M.M.Pabale, AGP for State.

Mr.Amitkumar D.Sale, for Intervener Mr.Prasant Deore.

***CORAM : R.M. Borde and
V.M. Deshpande, JJ.***

DATE : 24 July, 2018.

Maria
Luiza
Nicholas
Sequeira

P.C. :-

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Heard. Rule. With the consent of parties, the Petition is
disposed of at the admission stage.

2. The Petitioner has tendered on record the draft amendment during the course of hearing, which is taken on record. Leave to amend.

3. One Mr. Prashant Vishwasrao Deore, who has tendered a complaint against the functioning of the Managing Committee of the APMC, Umrane to the District Deputy Registrar, Co-operative Societies, Nasik, seeks his impleadment as intervener in the Petition. The Petitioner has no serious objection for adding Mr. Deore as intervener in the Petition. Leave granted. Mr. Amit Sale appears for the intervener.

4. The Petitioners are objecting to the order passed by the Respondent No.2 - District Deputy Registrar, Co-operative Societies, Nasik directing super-session of the managing body of the APMC, Umrane in exercise of powers under Section 45(1) of the APMC Act and appointing the Assistant Registrar, Co-operative Societies in Malegaon as an Administrator to carry out the administration of APMC. The order passed by the Respondent No.2 is mainly assailed on the ground of non-observance of the principles of natural justice. It is pointed out by the Counsel appearing for the Petitioner that the then District Deputy Registrar extended hearing to the Petitioner after issuance of notice of super-session on 14.05.2018, 29.05.2018 and 04.06.2018. There is no

issue as regarding extending opportunity of hearing to the Petitioners on the issue of super-session of the Managing Committee by the then District Deputy Registrar. However, it has been pointed out that the District Deputy Registrar, who has extended the hearing was transferred and the present District Deputy Registrar Mr. Gautam Balsane has assumed the charge of the office on 14th June 2018 and has pronounced the order which is impugned in this Petition on 13th July 2018. It is not disputed before us that after assuming the office, the present District Deputy Registrar has not extended opportunity of hearing to the Petitioners. It is thus clear that the Officer, who has extended opportunity of hearing has not passed the order however, the order has been passed by Mr. Balsane, who is occupying the office of the District Deputy Registrar, without extending an opportunity of hearing to the Petitioner. The Deciding Authority is expected to extend an opportunity of hearing. In the instant matter however one officer has heard the arguments and another officer has delivered the order. Since the adverse order has recorded in the breach of principles of natural justice, the same deserves to be quashed and set aside and the same is accordingly quashed and set aside. The order impugned and the decision passed by the District Deputy Registrar on 13th July 2018 is quashed and the matter stands remitted back for reconsideration to the District Deputy Registrar, Nasik. The Petitioners assure to cause appearance before the Respondent No.2 on 6th August 2018 and as such, no separate notice

requiring their presence before the District Deputy Registrar , Nasik shall be necessary. The Respondent No.2 shall record the decision in the matter after extending an opportunity of hearing to the Petitioners and all the parties concerned as expeditiously as possible preferably before 27th August 2018. The consequences arising out of quashment of the impugned order shall follow.

5. Rule is accordingly made absolute in the above terms. There shall be no order as to costs.

(V.M. Deshpande, J.)

(R. M. Borde, J.)