

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8054 OF 2018**

Devidas Anandrao Pingale

...Petitioner

Versus

Divisional Registrar,
Co-operative Societies, Nashik Division,
Nashik & Ors.

...Respondents

Mr. Kishor S. Patil i/b Ms. Rukmini Khairnar for the Petitioner

Mr. S. D. Rayarikar, A.G.P for the State – Respondent Nos. 1 and 2

Mr. S. S. Patwardhan I/b Mr. Sachin Gite for the Respondent No. 4

CORAM : REVATI MOHITE DERE, J.
MONDAY, 27th AUGUST 2018

P.C. :

1 Heard learned Counsel for the parties.

2 Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned A.G.P waives service on behalf of Respondent Nos. 1 and 2. Mr. Patwardhan waives service on behalf of the Respondent No. 4.

3 By this petition, the petitioner has impugned the order dated 28th May 2018/12th July 2018 passed by the Divisional Joint Registrar, Nashik in proceeding No. 2 of 2018.

4 The principal contention of the petitioner was that no notice was served on him before the impugned order was passed and hence, the petitioner was not heard. Learned counsel for the respondent No. 3 questions the locus of the petitioner to be heard by the Divisional Joint Registrar, Nashik.

5 Learned A.G.P was asked to take instructions whether the petitioner was issued notice or whether he was heard in the aforesaid proceedings being proceeding No. 2 of 2018. Learned A.G.P has tendered a letter dated 27th August 2018 sent by the Divisional Joint Registrar, Nashik stating therein that no notice was issued to the petitioner, as he was not a party to the dispute under Section 91 of the Cooperative Societies Act and hence, the petitioner was not heard.

6 The petitioner submits that the petitioner will file an appropriate application raising his objection before the respondent No. 1.

7 Without going into the merits of the petition, suffice to state that if an application is filed by the petitioner within one week from today, the Divisional Joint Registrar, Nashik shall decide the said application after hearing the parties, as expeditiously as possible and in any event within eight weeks from the receipt of this order. All contentions of the parties are kept open including the question of locus of the petitioner to file an application. Accordingly, the impugned order dated 28th May 2018/12th July 2018 is quashed and set-aside and the matter is remitted back to the Divisional Joint Registrar, Nashik for fresh consideration.

8 The Divisional Joint Registrar, Nashik to consider the application filed by the petitioner on its own merits, in accordance with law.

9 In view of the above order, the auction which is scheduled for tomorrow i.e. 28th August 2018, stands cancelled.

10 Parties to appear before the Divisional Joint Registrar, Nashik on 4th September 2018 at 11:00 a.m. The petitioner to file the application also on the said date.

11 Rule is made absolute on the aforesaid terms. Petition is disposed of accordingly.

12 Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.