

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 11736 OF 2018

M/s. GenRex Pharma Soluations & Services, and another	...Petitioners
<i>Versus</i>	
State Of Maharashtra and others	...Respondents

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Mr. Manoj Harit i/b. Manoj Harit & Co. for the Petitioners.
Mr. S.D. Rayrikar, A.G.P., for Respondents No.1 and 2-State.
Mr. Vishal Kanade a/w. Nikhil Rajani i/b. V. Deshpande & Co. for
Respondent No.3.

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CORAM : R. G. KETKAR, J.

DATE : 13th DECEMBER, 2018

P.C.

1. Not on board. At the request of Mr.Harit taken up in the production board.
2. Heard Mr.Manoj Harit, learned counsel for the petitioners, Mr. S.D. Rayrikar, learned A.G.P. for respondents No.1 & 2-State and Mr. Vishal Kanade, learned counsel for respondent No.3, at length.
3. This Petition takes exception to the failure on the part of the second respondent in deciding the application dated 28.8.2018 preferred by the petitioner seeking transfer of the proceedings filed by respondent No.3 under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (for short, 'Act').

4. After arguing the petition for quite some time, on instructions, Mr. Harit states that on or before 7.1.2019, the petitioner will file written statement to the proceedings filed by the third respondent under Section 101 of the Act. He submits that in terms of paragraph-19 of the order dated 9.12.2011 passed by the Division Bench of this Court in Writ Petition No.92/2009 [**M/s. Top Ten and another Vs. State of Maharashtra and others**] along with Writ Petition No.1230/2009 [Kanta Deepak Kate and another Vs. The Nishant Sahakari Gramin Credit Cooperative Society Ltd., Akola and others], respondent No.2 may be directed to first decide whether the petitioner has raised genuine defence in terms of the reply and thereafter proceed with the matter on merits.

5. In view thereof, the petition is disposed of by permitting the petitioner to file written statement on or before 7.1.2019 before the second respondent. Before proceeding with Section 101 proceedings on merits, the second respondent will decide whether the petitioner has raised bonafide defence in terms of paragraph-19 of the decision of this Court in **M/s. Top Ten** (supra). All contentions of the parties on merits are expressly kept open. Application dated 28.8.2018 for transfer does not survive and same stands disposed of. Order accordingly.

(R. G. KETKAR, J.)