

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8876 OF 2019

GULABRAO BABURAO DEVKAR
VERSUS
THE DIVISIONAL JOINT REGISTRAR CO OPERATIVE SOCIETIES
NASIK AND ANOTHER

Advocate for Petitioner : Mr. Shinde Abasaheb D.
AGP for Respondent No. 1 : Mr. Tiwari S.P.
Advocate for Respondent No.2 : Mr. Patil A.J.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 25/07/2019

PER COURT :

1. On 23/07/2019, I had pass the following order :-

"1. The petitioner is aggrieved by the order dated 16/05/2019 passed by the Divisional Joint Registrar, Cooperative Societies, Nashik, by which, he has concluded that notices were issued in the application filed under Section 107 of the Maharashtra Cooperative Societies Act. The hearing was posted on 18/02/2019, 30/03/2019 and 22/04/2019. The petitioner did not attend the hearing, is so recorded.

2. The learned Advocate for the petitioner submits that the petitioner has stated on oath that he has not received any notice of hearing from the State and he is not aware about any date of hearing, having been conveyed to him. The learned Advocate appearing on behalf of respondent

No.2 liquidator submits that he is not aware whether respondent No.1 had issued notice in the said matter.

3. Considering the peculiar situation as recorded to the foregoing paragraph, list this matter on 25/07/2019 for "passing orders".

4. The learned AGP shall keep the record pertaining to "जा.क.वि. २/बैंक/जळगांव/क.107/सन 2019" in the matter of Shri Gulabrao Devkar Vs. President, Avsayak Mandal, Shri Mahesh Sahakari Bank Limited, Jalgaon, decided on 16/05/2019, available for the perusal of the Court. It is made clear that the entire record pertaining to the said proceeding shall be placed before this Court.

5. Until further orders, Misc. Application No. 7/2018 in Dispute No. 146/2004 pending before the learned Cooperative Court, Jalgaon, shall stand adjourned.”

2. The learned AGP has placed before me the original record with regard to the proceedings initiated by this petitioner. The Roznama indicates that on 18/02/2019, none of the parties were present. The learned AGP points out a notice purportedly issued by the Divisional Joint Registrar, which does not carry the date except the month of January 2019. So also, though it is termed as a notice, it does not contain the returnable date, which is completely blank. It is, therefore, obvious that he had not issued a notice for holding the hearing on 18/02/2019.

3. The Roznama indicates the next date of hearing as 30/03/2019. Again the parties are recorded to have been absent. When called upon to point out the notice, by which the hearing was posted on 30/03/2019, the learned AGP submits that it was written in the roznama that the parties were absent. A similar entry is in the roznama as regards the hearing scheduled on 22/04/2019. The notice dated 30/03/2019 is pointed out as having been issued to the parties. The learned Advocate appearing on behalf of the respondents submits that even his client has never received any notice. The learned AGP is unable to point out as to whether such notices left the office of the Divisional Joint Registrar for being served upon the respondents, in view of the record available with him.

4. Considering the above, I do find that the Divisional Joint Registrar, Co-operative Societies Mr.Milind Bhalerao has rightly dealt with the proceedings in hand. There is room for doubt as to whether a notice was actually issued by him. The record does not indicate that the notices were dispatched from his Office. There is no record to indicate as to whether such notices were served. I, therefore, record my displeasure as regards the conduct of the concerned Divisional Joint Registrar, Co-operative Societies Mr.Milind Bhalerao.

5. In view of the above, the impugned order dated 16/05/2019 is quashed and set aside and the proceedings initiated by the petitioner shall stand restored to the Office of respondent No.1 at Nasik. R & P shall be returned forthwith. The litigating parties shall appear before respondent No.1 on 09/08/2019 at 11.00 a.m. and the said competent authority shall deal with the said proceedings as is expected in Law and strictly in accordance with the procedure laid down. The said authority shall decide the said proceedings on or before 20/09/2019.

6. The learned Registrar (Judicial) is directed to place a copy of this order before the Commissioner of Co-operation, State of Maharashtra at Pune, for his perusal.

7. Until the said proceedings are decided on or before 20/09/2019, the *ad-interim* protection granted by this Court vide order dated 23/07/2019 shall continue and Misc.Application No.7/2018 in Dispute No.146/2004, pending before the learned Co-operative Court, Jalgaon shall be adjourned.

(Ravindra V.Ghuge, J.)