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

WRIT PETITION NO. 1442 OF 2015

Samarth Nagar Lokhandwala
Complex Co-Operative Housing
Societies Association Ltd.

.....Petitioner

V/s.

The Deputy Registrar of Co-Operative
Societies and another

.....Respondents

Mr. Uday Warunjikar for the Petitioner
Mr. S. H. Kankal AGP for the State

CORAM : NITIN W. SAMBRE, J.

DATE : JULY 30, 2019.

P.C.

In my opinion, the order dated 26/08/2013 passed by the Deputy Registrar Co-Operative Societies in exercise of powers under Section 83 of The Maharashtra Co-operative Societies Act, 1960 ('the Act' for short) confirmed in Revision by Divisional Joint Registrar Co-Operative Societies vide its order dated 06/01/2015 in exercise of powers under Section 154 of the Act are not sustainable and are hereby quashed and set aside for following reasons.

2 Initial order by the Respondent-Deputy Registrar of Co-Operative Societies in exercise of powers under Section 83 of the Act is based on a complaint preferred by the members of the society. Section 83(1) of the Act contemplates that in case if more than 1/5th members of Co-operative Society request for an inquiry, the Registrar has every authority to order an inquiry pursuant to provisions of Section 83 of the Act. In Revision, petitioner has specifically raised a ground that apart from the fact that application/complaint under Section 83(1) is not signed by more than 1/5th members from the Society, he has also raised an issue of justifiable order for exercising powers under Section 83 of the Act. The Revisional Authority without dwelling upon the same has proceeded to record a finding that order under Section 83 of the Act is passed in exercise of powers and not based on alleged complaint.

3 If the order of Registrar passed in exercise of powers under Section 83 of the Act on 26/08/2013 is perused, there is a specific reference about a complaint preferred by 37 members so also the said

complaint is formed to be a basis for passing order under Section 83 of the Act. Perusal of the complaint reflects that same is not signed by 37 members which fact is lost sight by both Authorities.

4 Apart from above, the finding recorded by the Revisional Authority, that Deputy Registrar has exercised powers under Section 83 of the Act on its own cannot find place in the order under Section 83 of the Act dated 26/08/2013, as basis for said order are complaints preferred by the members.

5 That being so, both orders impugned are hereby quashed and set aside. Petition stands allowed in the above terms.

6 However, this will not preclude members of the Society in future from preferring fresh complaint pursuant to provisions of Section 83 (1) of the Act or Authority i.e. District Deputy Registrar on its own to initiate fresh proceedings under Section 83 of the Act.

[NITIN W. SAMBRE, J.]