

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

**WRIT PETITION NO. 3257 OF 2010
WITH
CIVIL APPLICATION NO. 89 OF 2019**

Our Sweet Home CHS Ltd.	...	Petitioner
V/s.		
Manorama Ralhan & Ors.	...	Respondent

Mr.Kansara i/b. Kansara & Thanekar for Petitioner.
Mr.D.S. Mahamani i/b. Mr.K.V. Tambe for Respondent No.1.
Mr.P.P. Pujari, AGP for Respondent Nos.2 and 3.

CORAM : A.S. GADKARI, J.

DATE : 1st October 2019.

PC. :

1] By the present Petition under Article 227 of the Constitution of India, the petitioner has impugned interlocutory Order dated 17th February 2010 passed by the District Deputy Registrar i.e. respondent No.2 herein, admitting the Revision filed by the respondent No.1 under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (for short, "M.C.S. Act") and condoning the delay caused in filing the said Revision.

2] Heard Mr.Kansara, learned counsel for the petitioner, Mr.Mahamani, learned counsel for respondent No.1 and Mr.Pujari, AGP for the State. Perused the record.

3] The record indicates that, in furtherance of the application filed by the petitioner under Section 101 of the M.C.S. Act, the respondent Nos.3 issued 'Recovery Certificate' under Section 101 of the M.C.S. Act on 22nd January 2007 thereby directing the respondent No.1 to pay a sum of Rs.5,84,551/-. A 'Recovery Certificate' is accordingly issued by the respondent No.3. The record further indicates that, after the petitioner-society adopted steps under the Rules of 1961 and issued notice of attachment for recovery of the said dues, the respondent No.1 preferred Revision Application No. 16 of 2010 before the respondent No.2.

The record further indicates that, the notice of the said Revision and the application for condonation of delay was served upon the petitioner-society. However, the petitioner-society did not remain present in the said proceedings and therefore, the respondent No.2 condoned the delay in filing the said Revision and by admitting the revision, granted interim relief in favour of the respondent No.1 by its

impugned Order dated 17th February 2010.

4] Mr.Kansara, learned counsel for the petitioner submitted that, as a matter of fact, the petitioner-society did not receive notice of the said proceedings. He further submitted that, Revision as contemplated under Section 154 of the M.C.S. Act was filed by the respondent No.1 in the year 2010 and as per Section 154 (2-A) of the M.C.S.Act, the respondent No.1 did not pay 50% of the recoverable dues to the petitioner-society and therefore, the respondent No.2 ought not have entertained the said Revision.

5] Mr.Ramchandra Lokhande, Assistant Registrar attached to the office of the respondent No.2 has filed an affidavit dated 16th June 2010. In para No.3 of the said Affidavit, categorical statements are made that the notice of the said Revision Application was sent through courier to the petitioner-society, however, nobody appeared on behalf of the petitioner for hearing. It is further stated that, the respondent No.1 has deposited 50% of the recovery amount mentioned in the 'Recovery Certificate' with the petitioner-society and therefore, the respondent No.1 has complied with the provisions of Section 154 (2A) of the M.C.S. Act.

6] In view of the categorical statements made in affidavit by the concerned officer of the respondent No.2, I find no substance in the contention of the petitioner as noted hereinabove. The Order impugned herein is an interlocutory Order and therefore, I find no reason to entertain the present Petition.

However, as the Revision Application filed by the respondent No.1 is of the year 2010, the respondent No.2 is hereby directed to conclude the hearing of the said Revision within a period of six months from the date of receipt of the present Order. It is needless to mention that, all the contentions of the petitioner-society pertaining to the maintainability of the Revision and non-compliance of Section 154 (2A) of the M.C.S. Act are kept open to be agitated at the time of 'Final Hearing' of the said Revision.

7] The Petition being devoid of merits is accordingly rejected.

8] In view of dismissal of the Writ Petition No. 3257 of 2010, the Application No. 89 of 2019 does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]