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

WRIT PETITION NO. 8464 OF 2019

Arif Moh. Harun Saudagar

..Petitioner

vs.

The Divisional Joint Registrar Co-operative
Societies, Nashik & ors.

..Respondents

....

Shri Anilkumar K. Patil for petitioner.

Shri S.H. Kankal, AGP for respondent Nos. 1, 2 and 4.

....

CORAM : M.S.KARNIK, J.

DATE : 3rd SEPTEMBER, 2019

P.C. :

Heard learned counsel for the petitioner.

2. By this Petition filed under Article 227 of the Constitution of India, the petitioner is challenging the judgment and order dated 28/12/2018 passed by the Divisional Joint Registrar Co-operative Nashik, Division Nashik. By this order the Appellate Authority has dismissed the Appeal for want of jurisdiction on the basis of Circular dated 21/12/2017 issued by the Directorate of Textiles (Hand-loom & Power Loom), Government of Maharashtra, Nagpur.

3. According to Appellate Authority, in view of this Circular, the appropriate authority to hear the Appeal is the Joint Directorate of Textiles.

4. Learned counsel for the petitioner would submit that he was not aware that the matter was listed on 24/12/2018. According to him, no notice of the hearing on 24/12/2018 was issued. Learned counsel for the petitioner would submit that instead of dismissing the Appeal for want of jurisdiction the same should have been transferred to the Appellate authority who is now conferred power to hear the Appeal by virtue of the Circular dated 21/12/2017.

5. Learned AGP for the respondent Nos. 1, 2 and 4 opposed the request made by the petitioner. He would submit that there is no provision for transferring the Appeal to the authority competent to hear the same if the Divisional Joint Registrar has come to the conclusion that he has no jurisdiction to hear the Appeal.

6. Be that as it may, from the record it transpires that on 24/12/2018 the appellant could not remain present to make submissions. It is the contention of the appellant that no notice of the date of hearing was given and therefore could not remain present. With a view to give one opportunity to the petitioner to make submissions for transfer of the Appeal to the competent Appellate Authority, the impugned order is set aside.

7. The petitioner to appear before the Joint Registrar Co-operative Nashik, on 23/9/2019, at 11.00 a.m.

8. The Joint Registrar Co-operative Nashik to hear the petitioner and then pass appropriate orders on its own merits.

9. All the contentions are kept open.

10. The Petition is allowed in the above terms with no order as to costs.

11. Parties to act on an authenticated copy of this order.

(M.S.KARNIK, J.)