

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

WRIT PETITION NO.9756 OF 2019

Anil Shamsheer Singh ... Petitioner

V/s.

The Divisional Joint Registrar
Co-operative Societies,
Mumbai Division and ors. ... Respondents

Mr.Arshil A. Shah with Mr.Vishal Raman for the
Petitioner.

Mr.S.H.Kankal, AGP for the Respondent-State.

Mr.Sagar G. Talekar, for Respondent Nos.4 to 12.

**CORAM : UJJAL BHUYAN, J.
DATE : OCTOBER 11, 2019.**

P.C.:-

1. Heard Mr.A.A.Shah, learned counsel for the
petitioner.

2. Mr.S.H.Kankal, learned Assistant Government
Pleader waives notice for respondent Nos.1 and 2.
Mr.Talekar, learned counsel waives notice for respondent
Nos. 4 to 12.

3. In this petition filed under Article 227 of the Constitution of India, petitioner has assailed legality and correctness of the order dated 31st July, 2019 passed by the Divisional Joint Registrar of Co-operative Societies, Mumbai Division, partly allowing Appeal No. 108 of 2019 filed by Respondent Nos.5 to 12.

4. Matter relates to the allegations made by the petitioner regarding holding of Annual General Meeting (AGM) of the Suyash Co-operative Housing Society Limited for the year 2017-18. It appears that Deputy Registrar of Co-operative Societies had passed an order on 30th March, 2019 disqualifying the members of the Managing Committee, further restraining them from contesting elections for another term. This came to be challenged by respondent Nos.5 to 12 by filing appeal under Section 152 of the Maharashtra Co-operative Societies Act, 1960 before the Divisional Joint Registrar, which was registered as Appeal No.108 of 2019.

5. Initially, an order was passed on 15th April 2019,

whereby order of the Deputy Registrar dated 30th March, 2019 was set aside and the matter was remanded back to the said authority for a fresh decision in accordance with law.

6. This order came to be challenged by the petitioner before this court by filing Writ Petition No.5678 of 2019 which was disposed of vide order dated 7th June, 2019 by holding that the order dated 15th April, 2019 was passed in violation of the principles of natural justice and accordingly, the said order was set aside. Both the parties were directed to appear before the Divisional Joint Registrar on 24th June, 2019 at 11.00 a.m. whereafter Divisional Joint Registrar was directed to hear both the sides on the issue raised in the appeal on merit and thereafter, to pass an appropriate order.

7. Following the aforesaid order of this court, impugned order dated 31st July, 2019 was passed by the Divisional Joint Registrar.

8. On a perusal of the impugned order dated 31st July, 2019, it is seen that Divisional Joint Registrar without going into the merits of the case had remanded the matter back to the Deputy Registrar for a fresh consideration and decision on merit.

9. When this court in the previous round of litigation had directed the Divisional Joint Registrar to hear both the sides on the issue raised in the appeal on merit and thereafter, to pass an appropriate order, it was not open to the Divisional Joint Registrar to have relegated the matter back to the Deputy Registrar for deciding the matter on merits instead of deciding himself. Such order passed by the Divisional Joint Registrar is apparently in violation of the direction of this court dated 7th June, 2019 and therefore, cannot be sustained.

10. Accordingly and in the light of the above, impugned order dated 31st July, 2019 is hereby set aside and quashed. Divisional Joint Registrar shall decide the appeal himself on merits after hearing both the sides.

11. Parties to appear before the Divisional Joint Registrar on or before 13th November, 2019.

12. Writ petition is accordingly allowed, but without any order as to costs.

(UJJAL BHUYAN, J.)

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