

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

WRIT PETITION NO. 10849 OF 2019

Mr. Santosh Devrao Garje & Ors. ... Petitioners.

V/s.

Bharatkumar Ganganamoni & Ors. ... Respondents.

Mr. Raju M. Yamgar, Advocate for the Petitioners.

Mr. Sohel Shaikh, Advocate for Respondent No.1.

Mr. C. D. Mali, AGP for the State-Respondent Nos. 2, 4, 5 & 6.

CORAM : UJJAL BHUYAN, J.

DATE : OCTOBER 09, 2019.

ORAL ORDER :

1 Heard Mr. Raju Yamgar, learned counsel for the Petitioners, Mr. Sohel Shaikh, learned counsel for Respondent No. 1 and Mr. C. D. Mali, learned Assistant Govt. Pleader for the State - Respondents.

2 This petition challenges the order dated 19.09.2019 passed by Respondent No.4 -Hon'ble State Minister, as the Revisional Authority staying the order dated 21.06.2019 passed by the Appellate Authority - Respondent No.2.

3 Petitioners are shareholder members of the Co- operative Society called “Ajay Co-operative Housing Society Ltd.”, which is registered under the Maharashtra Co-operative Societies Act, 1960. Their allegation is that the Managing Committee of Ajay Co-operative Housing Society Ltd., (the Co-operative Society) failed to hold Annual General Meeting (AGM) for the year 2015- 2016 within the statutory period. A complaint was made before Respondent No. 2 by the petitioners, contending that by not holding AGM within the statutory period, the Managing Committee stood automatically dis-qualified and, therefore, elections should be held for electing new Managing Committee and in the interregnum to appoint authorized officer to manage the affairs of the Co-operative Society. This prayer of the petitioners was allowed by Respondent No. 2 vide order dated 21.06.2019, by disqualifying the members of the Managing Committee of the Co-operative Society from contesting the next election. The next prayer was also allowed, by appointing Respondent No.3 as the authorized officer of the Co-operative Society, who was directed to take steps for holding fresh elections.

4 This order of Respondent No. 2 came to be challenged by the Co-operative Society by way of

revision application before Respondent No. 4 which was registered as Revision Application No. 392 of 2019.

5 Respondent No. 4, acting as the Revisional Authority passed the impugned order dated 19.09.2019, staying the order of Respondent No. 2 dated 21.06.2019 till the next date.

6 Aggrieved by the said order, the present petition has been filed.

7 Learned counsel for the Petitioners submits that the Revision Application was extensively heard by Respondent No.4 on four dates. Petitioners were under the bonafide impression that the Revision Application itself would be finally decided but in-stead of doing that Respondent No.4 passed an interim order vide the impugned order dated 21.06.2019. He further contended that the scope of revisional jurisdiction is much narrower compared to appellate jurisdiction. In this connection, he placed reliance on a decision of this court in the case of - **Om Sai Pratibha Co-operative Hsg. Society vs. State of Maharashtra & Ors.**, reported in 2002 (5) Bom. C.R. 177.

8 Per contra, learned counsel for Respondent No.1 submits that the impugned order is an interim order. Respondent No. 4 has jurisdiction to pass interim order and, therefore, there is no jurisdictional error in passing the interim order. He further submits that the entire Revision Application may be directed to be decided expeditiously and till such time, the interim order should hold the field.

9 Learned AGP submits that this is an internal matter of the Co-operative Society and the State would have no say in the matter.

10 Submissions advanced by learned counsel for the parties have been considered.

11 It is true that compared to the appellate jurisdiction the scope of revisional jurisdiction lies within a narrow compass but that it is not the issue in this proceeding. The question is whether the revisional authority, while entertaining the Revision Application has the competence to pass an interim order during the pendency of the Revision Application. I am of the view that power to grant stay or not to grant stay is incidental and ancillary to the power of adjudicating the Revision Application. This is a

discretionary power vested on the Revisional Authority. Since the discretion has been exercised by the Revisional Authority, court is not inclined to interfere with such exercise of discretion. However, it would be in the interest of justice, if the Revision Application is decided one way or the other expeditiously.

12 Accordingly and in light of the above, Respondent No. 4 is directed to finally decide Revision Application No. 392 of 2019 within a period of three months from the date of receipt of an authenticated copy of this order. Till such time, the interim order passed by Respondent No. 4 shall continue to hold the field. During this period the Managing Committee shall not take any major decision concerning the co-operative society.

13 Writ petition is disposed of.

(UJJAL BHUYAN, J.)

(Note : Last sentence in para 12 is added as per order dated 18.10.2019)

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