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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12388 OF 2018

Shree Jyotiram Sahakari Doodh

Vyavasayik Sanstha Maryadit

..Petitioner.

vs.

Union of India & Ors.

..Respondents.

Mr.A.V. Anturkar, Senior Advocate i/by Mr.Tanaji Mhalugade Advocate for the Petitioner.

Mr.Vijay Kanatharia alonwith Mr.Anand Singh, for Respondent No.1-Union of India.

Mr.Y.S. Jahagirdar, Senior Advocate i/by Mr.A.B. Borkar, for Respondent No.8.

Ms.S.S. Bhende, AGP for State.

**CORAM : INDRAJIT MAHANTY &
SARANG V. KOTWAL, JJ.**

DATE : 17th JANUARY, 2019.

P.C.

1] Heard learned counsel for the respective parties.

2] The main contention advanced by the Petitioner herein is that the procedure prescribed for the conduct of annual general meeting of the society, in Section 13 of the Maharashtra Co-operative Societies Act, 1960 (for short “the said act”), for the purpose of carrying out amendment to the bye-laws of the Society have not been complied with, and, therefore, prayer has been made for issue of writ to direct Respondent No.8-Kolhapur Zilla

Doodh Utpadak Sangh Maryadit (Gokul), to re-conduct the general body meeting in according with bye-law.

3] Learned counsel for the Respondent-society, on the other hand raised a preliminary objection for entertaining the present Writ Petition and inter-alia drawn attention of the Court to Section 91 of the Maharashtra Co-Operative Societies Act, 1960, stating that any such grievance of the Petitioner can be resolved by resorting to Section 91 of the said Act, hence, Writ Petition ought not to be entertained.

4] Learned counsel for the Respondent-society further draws our attention to Para No.5 of the Writ Petition, which is quoted hereunder :

“ In the latter portion of the Petition, the Petitioner will demonstrate to the Honourable Court, how despite the letter dated 15th September 2018, some persons of the last Respondent herein have hurriedly conducted the meeting, in a manner which is really a fraud on the provisions of the Maharashtra Co-operative Societies Act. The Petitioner however is mentioning that fact, at this juncture because the Petitioner want to bring to the notice of the Honourable Court, that this Petition is filed by the Petitioner not in the individual capacity but as a representative, in fact, large number of the members of the last Respondent viz. Gokul or in any case, those persons who had made a representation to the Chairman/Managing Director of Kolhapur Zilla Doodh Utpadak Sangh Maryadit, Gokul. The true copies of the representations made by the Petitioner and other 49 persons in pursuance of the said bye-law is enclosed to the memo of this Petition and marked as Exhibit-B.”

5] Learned counsel for the Respondent-society further submits that the Petitioner who has filed Writ Petition on individual capacity, cannot claim to be representative of large number of members of the Respondent-Society without complying with the requirements of order (1) Rule 8.

6] Learned counsel for the Petitioner, drew our attention to Section 13 of the said Act and reiterated that allegation of the Petitioner is that the bye laws are sought to be amended without resorting to the process mandated under Section 13 of the said Act.

7] On the other hand, learned counsel for the Respondent-society contends that although the Respondent-Society was registered under the said Act , it has made an application under Section 22 of the Multi-state Co-operative Societies Act, 2002 and has complied with all the necessary requirements thereof.

8] At this stage, we need not enter into dispute raised by the learned counsel for the respective parties since, we are of the considered view that the scope of Section 91 of the said Act, is wide enough covering any dispute that may arise between the parties to encompass the dispute of the nature sought to be agitated in the present Writ Petition. Since we have come to a finding that Section 91 of the said Act would encompass the nature of dispute in the present Writ Petition, the Petitioner has alternate efficacious remedy available in law. Hence, we are refraining from entertaining the Writ Petition and leave the matter to the proper authorities for adjudication, if any, that may arise for consideration. Accordingly, Writ Petition stands disposed off.

(SARANG V. KOTWAL, J)

(INDRAJIT MAHANTY, J)