

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION (L) NO.709 OF 2019**

Vinita Dighe & Ors.

....Petitioners

vs

The Div. Jt. Registrar C.S. Mumbai & Ors.

...Respondents

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Mr. G.S. Godbole, i/b. Mr. N.N. Bhadrashete, for the Petitioners.

Mr. H.B. Takke, AGP, for Respondent Nos. 1 and 2.

Mr. Rohan Kelkar, i/b. Mr. Dinesh Rane, for Respondent Nos. 3 to 5.

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CORAM : S.C. GUPTE, J.**DATED: 18 MARCH 2019****P.C.:**

. This petition challenges a remand order passed by Divisional Joint Registrar of Co-operative Societies. The subject matter of controversy concerns an order passed by Deputy Registrar of Co-operative Societies under Section 77A of the Maharashtra Co-operative Societies Act. The remand order is challenged by the Petitioners, who are members of the managing committee of a co-operative housing society. It appears that pending the present challenge, the Petitioners herein have participated in the remanded enquiry under Section 77A without prejudice to their right to challenge the remand order. Learned Counsel for the Petitioners, however, submits that the Petitioners were simply allowed to put in their written reply in the enquiry under Section 77A and without even hearing them, the matter is closed for orders by

the Deputy Registrar of Co-operative Societies. Learned Counsel, in the premises, tenders an amendment seeking to introduce further grounds of challenge. The Petitioners are permitted to amend the petition in terms of the draft amendment handed in and marked "X" for identification. Amendment to be carried out within one week.

2. Since the impugned remand order is passed by the Divisional Joint Registrar under Section 152 of the Act in an appeal from an order under Section 77A of the Act, there is a remedy of revision before the State Government under Section 154 of the Act. After the matter is heard at some length, learned Counsel for the Petitioners agrees to take his grievance before the revisional authority. Learned Counsel, however, apprehends that before the Petitioners do so, the Deputy Registrar of Co-Operative Societies in the remanded enquiry may pass an order frustrating the Petitioner's design to approach the revisional authority. Learned Counsel for Respondent Nos. 3, 4 and 5, who are the contesting Respondents, agrees to a two weeks' stay on the Deputy Registrar of Co-operative Societies passing any order on the remanded enquiry under Section 77A.

4. In the premises, the following order is passed:

(i) The Petitioners are permitted to withdraw the present writ petition. The petition is, accordingly, disposed of as withdrawn with liberty to the Petitioners to challenge the impugned remand order in a revision under Section 154 of the Maharashtra Co-operatives Societies Act, 1960.

(ii) For a period of two weeks from today, there will be a stay on further proceedings before the Deputy Registrar of Co-operative Societies under Section 77A of the Maharashtra Co-operative Societies Act, 1960.

(iii) The Petitioners may apply to the revisional authority for continuation of this stay. Any such application shall be decided on its own merits. All rights and contentions of the parties on merits are kept open.

(iv) No order as to costs.

(S.C. GUPTE, J.)