

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***ORDINARY ORIGINAL CIVIL JURISDICTION*****WRIT PETITION (L) NO. 2563 OF 2019**

**The Shaikh Mishree SRA Co-operative
Housing Society Ltd. & Ors.**

..... Petitioners

VERSUS

The State of Maharashtra & Ors.

..... Respondents

Mr.Vishal Kanade, a/w. Ms.Neha Parte i/b. Mr.Amey C.Sawant for the
Petitioners.

Mr.Manish Upadhye, A.G.P. for the State – Respondent nos. 1 and 2.

Mr.Mithilesh G. Rajbhar for the Respondent no.5.

Mr.Devdas Aroskar, the Administrator – Respondent no.4 present.

CORAM : R.D. DHANUKA, J.

DATE : 23rd SEPTEMBER, 2019

P.C.

Mr. Kanade, learned counsel appearing for the petitioners undertakes to file affidavit of service sharing proof of service upon respondent no.3 during the course of the day. Undertaking is accepted.

2. The learned A.G.P. for the respondent nos. 1 and 2 states that the appeal preferred by the petitioners itself is on board before the respondent no.2 on 4th November,2019. A perusal of the order dated 27th August, 2019 indicates that though the learned Divisional Joint Registrar has already admitted Appeal No.184 of 2019, however has refused to grant stay.

3. The respondent no.4 who is present in court states that the

petitioners had assured the respondent no.4 that they will handover the charge to the respondent no.4 however has filed this writ petitioner in this court.

4. The petitioners are entitled to challenge the order passed by the learned Divisional Joint Registrar which they have done by filing this writ petition. Since the appeal is admitted by the Divisional Joint Registrar, in my *prima facie* view, the learned Divisional Joint Registrar could not have rejected the stay application filed by the petitioners without any basis.

5. I, therefore, pass the following order :-

(a) The impugned order dated 27th August, 2019 passed by the learned Divisional Joint Registrar rejecting the stay application is set aside.

(b) The learned Divisional Joint Registrar is directed to hear the Appeal No. 184 of 2019 on the date on which the matter is listed on board and shall not grant adjournment to the petitioners or the complainant.

(c) During the pendency of the said appeal and for a period of two weeks thereafter from the date of the communication of the said order, if the same is adverse against the petitioners, the impugned order i.e. appointment of the respondent no.4 as administrator shall remain stayed.

6. Writ petition is disposed of on the aforesaid terms. There shall be

no order as to costs.

7. The parties to act on the authenticated copy of this order.

[R.D.DHANUKA, J.]