

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2653 OF 2018

VJP Medical Services Pvt. Ltd.

....Petitioner

vs

State of Maharashtra & Others

...Respondents

.....

Ms. M.J. Reena Rolland, for the Petitioner.

Mr. S.B. Gore, AGP, for Respondent No. 1.

Mr. Satyam R. Dubey, for Respondent Nos. 4 and 5.

.....

CORAM : S.C. GUPTE, J.

DATED: 2 MAY 2019

P.C.:

. Heard learned Counsel for the Petitioner, learned AGP for the State (Respondent No. 1) and learned Counsel for Respondent Nos. 4 and 5, who are the main contesting Respondents.

2. This petition challenges a recovery certificate issued by Assistant Registrar of Co-operative Societies under Section 101 of Maharashtra Co-operative Societies Act, 1960 ("Act"). The challenge is *inter alia* on the ground that the Petitioner had no notice of the recovery proceedings, since the transfer of the suit premises by the original member, i.e. Respondent No.6, to him was not registered by the society, the Petitioner was not on record and since his predecessor (Respondent No.6 herein) had already transferred the suit premises to the Petitioner, he chose to remain absent. It is submitted that, accordingly, the society's

case before the Deputy Registrar for recovery of dues has gone unchallenged.

3. It appears from the record of the case that the Petitioner has already filed a revision application under Section 154 of the Act before District Deputy Registrar of Co-operative Societies. That application has not been entertained so far by the Deputy Registrar on the ground that 50% of the disputed amount has not been deposited by the Petitioner in accordance with sub-section (2A) of Section 154.

4. The Respondent society has filed an affidavit in the petition supporting its case for recovery of the amount reflected in the recovery certificate. It is submitted by learned Counsel for the Respondent Society that the dues owed by the Petitioner to the society include not just the maintenance charges of the society, but even property taxes outstanding with effect from 2005-2006. The society's bills issued to the Petitioner in this behalf have also been placed on record.

5. The petition, thus, involves disputed questions, which may appropriately have to be gone into by the revisional authority under Section 154. There is no reason why, in the premises, this Court should exercise its writ jurisdiction and not relegate the parties to the statutory remedy available in law.

6. Accordingly, the petition is dismissed. It is, however, made clear that if the Petitioner deposits 50% of the disputed amount, i.e. Rs.17.50 lakhs, before the District Deputy Registrar of Co-operative Societies, its revision under Section 154 of the Act pending before the

Registrar shall be entertained and the parties will be heard on merits before any order is passed under Section 154 in revision. Any delay in this behalf shall be condoned by District Deputy Registrar and the Petitioner shall be allowed to deposit 50% of the amount of recovery certificate, as noted above, and the matter will be heard on merits.

(S.C. GUPTE, J.)