

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.5587 OF 2017

Smt. Shewanta W/o. Ramesh Wadhare,
Aged about 61 years, Occupation : Service,
R/o. Rajgopalachari Ward, Bhandara,
Tahsil and District : Ghandara.

.... **PETITIONER.**

// VERSUS //

1. The Divisional Joint Registrar,
Co-operative Societies, Nagpur
Dhanwate Chambers, Sitabuldi,
Nagpur.
2. The District Deputy Registrar,
Co-operative Societies, Bhandara,
Tahsil and District : Bhandara.
3. Shri Sandeep Nirwan – Official
Liquidator, Mahasul Karmachari
Sahakari Gruha Nirman Sansthan Maryadit,
Bhandara, Regd. No.126, Tahsil and
District : Bhandara, C/o. The District
Deputy Registrar, Co-operative Societies,
Bhandara.
4. Shri Sudhakar Ramchandra Kulkarni,
Secretary, Mahasul Karmachari Saha-
Gruha Nirman Sanstha Maryadit,
Bhandara, Regd. No. 126, Tahsil and
District : Bhandara, R/o. Canal Road,
Shivprasad, 46, Gokulpeth, Nagpur.
5. Shri Mahadeo Modku Khokale,
President, Mahasul Karmachari Saha-
Gruha Nirman Sanstha Maryadit,
Bhandara, Regd. No. 126, Tahsil and

Disrict : Bhandara, R/o. Bhayyaji Nagar,
Bhandara, Tahsil and District : Bhandara.

.... **RESPONDENTS.**

Shri N.V.Tapas, Advocate for Petitioner.
Shri N.R.Patil, A.G.P for Respondent Nos. 1 and 2.

CORAM : Z.A.HAQ, J.
DATED : AUGUST 23, 2019.

ORAL JUDGMENT :

1. Heard.

2. **RULE.** Rule made returnable forthwith.

3. The petitioner has filed complaint under Section 12 of the Consumer Protection Act 1986 before District Consumer Disputes Redressal Forum, Nagpur, which is pending. After filing of the complaint, Liquidator came to be appointed to manage the affairs of the Co-operative Society of which respondent Nos. 4 and 5 are the office bearers. An objection was raised that as the co-operative society is under liquidation, the complaint before the District Forum cannot continue unless leave as per Section 107 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the Act of 1960") is granted by the Authority. In view of the objection raised before the District Forum, the petitioner approached the District

Deputy Registrar for seeking leave to prosecute the complaint. The prayer made by the petitioner for grant of leave to prosecute the complaint before the District Forum was rejected by the District Deputy Registrar by order dated 16th February 2016. This order was challenged by the petitioner before Divisional Joint Registrar by filing revision application, which is dismissed by the impugned order. While dismissing the revision application filed by the petitioner, the learned Divisional Joint Registrar observed that the Liquidator is not impleaded as party and therefore, the revision cannot be entertained.

4. After considering the nature of controversy, I find that the subordinate authorities have failed to discharge their statutory obligation as per Section 107 of the Act of 1960. The respondent Nos. 1 and 2 have not been able to point out before this Court also, as to why the petitioner is not entitled for leave to prosecute the complaint filed by him before the District Forum. The respondent Nos. 1 and 2 have also not been able to point out that any conditions are required to be imposed while granting leave to the petitioner to prosecute the complaint.

5. In the above facts, the following order is passed:

- i) The impugned order is set aside.
- ii) The District Deputy Registrar is directed to grant leave to the petitioner to prosecute the complaint filed by the petitioner

before District Consumer Disputes Redressal Forum. While granting leave, the District Deputy Registrar may examine whether any terms are required to be imposed on the petitioner.

iii) The District Deputy Registrar shall complete this exercise within two months from today.

iv) The petitioner shall appear before the District Deputy Registrar, Bhandara on 16th September 2019.

Rule is made absolute in the above terms. In the circumstances, the parties to bear their own costs.

CIVIL APPLN.NO. 2142/2019.

In view of disposal of the writ petition, the application praying for grant of stay to the proceedings in Complaint Case No.62/2014 does not survive, hence, it is **disposed**.

JUDGE

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