

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION (STAMP) NO.13678 OF 2020

GHODEGAON NO. 1 VKSS SOCIETY LTD.,
VERSUS
THE DIVISIONAL JOINT REGISTRAR AND OTHERS

...
Advocates for Petitioner : Shri R.M.Dhorde, Sr. Advocate
i/b Shri V.R.Dhorde
AGP for Respondents: Shri S.G.Sangle

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CORAM : RAVINDRA V. GHUGE & SHRIKANT D. KULKARNI, JJ.
Dated: August 24, 2020

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PER COURT :-

1. The petitioner / Society has putforth prayer clauses (B), (C) and (D) as under:-

"(B) Issue writ of mandamus or any other appropriate writ, order or directions in the nature of writ of mandamus directing the respondent No.1 -Divisional Joint Registrar, Cooperative Societies, Nashik Division, Nashik to forthwith hear and decide the Stay Applications and Appeal filed by the petitioner against the orders dated 16.3.2020 and 31.7.2020 and for that purpose issue necessary orders;

(C) Grant stay to the execution and implementation of the interim order of liquidation dated 16.3.2020 and final order of liquidation dated 31.7.2020 passed by the respondent No.2 - Assistant Registrar, Cooperative Societies, Shrigonda will the hearing and decision on the Stay Application and for that purpose issue necessary orders;

(D) Pending the hearing and final disposal of this Writ petition grant stay to the interim order of liquidation dated 16.3.2020 and final order of liquidation dated 31.7.2020 passed by the respondent No.2 - Assistant Registrar, Cooperative Societies, Shrigonda and for that purpose issue necessary orders; "

2. We have heard the learned Sr. Advocate for the petitioner and the learned AGP for the respondents.

3. The substantive proceedings filed by the petitioner are pending before respondent No.1, in which, the impugned orders dated 16.3.2020 and 31.7.2020 have been assailed. By the interim order dated 16.3.2020, respondent No.2 appointed a Liquidator. By the final order dated 31.7.2020, the proceedings were concluded and respondent No.2 found it appropriate to confirm his interim order and accordingly, Liquidator / respondent No.3 herein, has been appointed.

4. The learned AGP submits that the proceedings initiated by the petitioner, pending before respondent No.1, are in relation to the interim order dated 16.3.2020 passed by respondent No.2. The final order dated 31.7.2020 has been subsequently challenged on 14.8.2020, vide another appeal.

5. The learned Sr. Advocate makes a grievance that his appeal, challenging the final order dated 31.7.2020 is pending for ad-interim orders. The petitioner does not mind, if respondent No.1 decides the said appeal finally, but within a particular time frame. He submits, on instructions that, officially, the Liquidator has still not taken charge of the Society, notwithstanding the final order dated 31.7.2020.

6. The learned Sr. Advocate has placed reliance upon the judgment delivered by this Court in the matter of Chandrapur Zilla Sahakari Krushi And Gramin Bahuudeshiya Development Bank Ltd.Vs.State Of Maharashtra & Ors. (2004(1) ALL MR 266), to buttress his submission that if the interim order passed by respondent No.2 herein is set aside, in view of the appeal filed by the petitioner, the final order dated 31.7.2020 would not survive and would stand automatically set aside.

7. The learned AGP informs us that respondent No.2 can arrange a physical final hearing in the said appeals as the infrastructure for enabling the parties to conduct the matters before respondent No.1, on-line, is not available.

8. It is in this backdrop, that we are directing respondent No.1 to

decide both the appeals filed by the petitioner against the interim order as well as the final order. We make it clear that we have not expressed any opinion as regards the merits of the matter and respondent No.1 would be at liberty to decide the said appeals on their own merits.

9. Since the dispute is between the petitioner and respondents, who are before us today, this petition is disposed off. The petitioner shall appear before respondent No.1 on 11.9.20 at 11.00 am and address respondent No.1 on the pending appeals. If any of the parties to the said appeals are yet to be served with notice by respondent No.1, emergent steps would be undertaken to ensure that all the respondents are served, so as to enable them to appear before respondent No.1 on 11.9.2020.

10. We expect respondent No.1 to decide the appeals preferred by the petitioner as expeditiously as possible and in any case on/or before 30.9.2020. Until such a decision, respondent No.3 shall not dispose off the properties of the petitioner. So also, in the event the third respondent has not yet official taken charge of the petitioner / Society, he would refrain from doing so, until 30.9.2020.

(SHRIKANT D. KULKARNI, J.) (RAVINDRA V. GHUGE, J.)

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