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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 12052 OF 2019

Wassoodew Co-Op. Housing Society Ltd. ... Petitioner
Vs.
Smt. Jennifer Rebello & Ors. ... Respondents

Mr. Kunal Bhange a/w Amirben Tripathy i/b R. Mandhare, for the
Petitioner.

Ms. Jennifer Rebello, Respondent No. 1 in person – present.

Mr. S. L. Babar, AGP for the Respondent Nos. 2 to 4.

CORAM : C. V. BHADANG, J.

DATE : FEBRUARY 5, 2020

PC :

1. Heard. The learned counsel for the Petitioner, on instructions, states that the Petitioner is giving up the challenge on the ground that the impugned order was passed by the Respondent No. 4, when the Respondent No. 4 was not in the office and was on deputation.

2. Thus, the only ground which survives is that the Petitioner was not heard before the impugned order was passed, directing the reaudit under S. 81(6) of the Maharashtra Co-Operative Societies Act, 1960. It is submitted that the District Deputy Registrar was required to follow principles of natural justice, before passing an order under S.81(6) of the said Act. Admittedly, that is an order passed on the basis of an application filed by the first Respondent. The first Respondent, who appears in person, states that she has no objection if the said order is set aside and the matter is remitted back to the learned

Deputy Registrar for deciding the issue of re-audit afresh, after hearing the Petitioner and the first Respondent. In such circumstances, by consent of parties, following order is passed.

ORDER

- (i) The petition is partly allowed.
- (ii) The impugned orders are hereby set aside.
- (iii) The application filed by the first Respondent seeking re-audit is remitted back to the file of District Deputy Registrar for deciding it afresh, on hearing the Petitioner and the first Respondent, on merits and in accordance with law, as expeditiously as possible, and preferably within three months from the receipt hereof.
- (iv) It is made clear that this Court has not expressed any opinion as to whether principles of natural justice are required to be followed before the order is passed under S. 81(6) of the Act. This order is passed purely by consent of the parties.
- (v) Rival contentions of the parties, on merits, are left open.
- (vi) The parties are directed to appear before the learned District Deputy Registrar on 24th February, 2020.
- (vii) In the circumstance, there shall be no order as to costs.
- (viii) The petition is disposed of in the aforesaid terms.

Vinayak
P.
Halemath

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C. V. BHADANG, J.