

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1001 OF 2020

WITH

INTERIM APPLICATION NO. 1 OF 2020

Anita Pankaj Jain & ors.

...Petitioners

Versus

Newlook Constructions Pvt. Ltd. & ors.

...Respondents

Mr. Prasad Dani, Senior Advocate, a/w Ashutosh Gavnekar,
Ramchandran N. i/b Narayanan & Narayanan, for the
Petitioners.

Mr. N. C. Walimbe, AGP for the State/Respondent nos.3 to 5.

Mr. R. S. Ghadge, i/b Appasaheb Desai, for Respondent no.1

Mr. Sourabh Kurade, i/b Vijay Patil, for Respondent no.4.

CORAM: N. J. JAMADAR, J.

DATED : 13th MARCH, 2020

PC:-

1. This petition assails legality, propriety and correctness of an order passed by the Minister (Co-operation) on 8th November, 2019, in Revision Application No.750 of 2015, whereby the Minister was persuaded to allow the revision application and set aside the order passed by the Divisional Joint Registrar on 4th September, 2015, upholding the order passed by the Assistant Registrar, Co-operative Societies SRA, Mumbai City, on 26th May, 2014, whereby the petitioners society was ordered to be registered as a co-operative society. The Minister, thus, set aside

the order passed by the Assistant Registrar dated 26th May, 2014, directing registration of the petitioner society.

2. In the backdrop of the nature of the challenge, it does not appear necessary to delve into the facts of the case in detail. The petitioner, had approached the Assistant Registrar as the developer, has not registered the society in conformity with the governing provisions. By a order dated 26th May, 2014, the Assistant Registrar directed that the petitioner society be registered. The respondent no.1 herein carried the matter in appeal before the Divisional Joint Registrar (respondent no.3). The appeal came to be dismissed by an order dated 4th September, 2015. Respondent no.1 invoked the revisional jurisdiction of the Government. By the impugned order Minister (Co-operation) was persuaded to allow the revision.

3. The learned Counsel for the petitioners has invited the attention of the Court to the roznama of the proceedings before the Minister, and the observations in the impugned order. The roznama indicates that on 16th September, 2019, when the petition was posted for hearing, only revision petitioners were present before the Minister and they tendered the notes of arguments. The revision was thus closed for orders. In contrast, in the impugned order, the revisional authority has

observed that on 16th September, 2019, the matter was heard and even the arguments on behalf of the respondents – petitioners herein, were also heard. The narration of the submissions on behalf of the parties is, however, restricted to that the submissions made on behalf of the petitioners before the Minister. It does not appear that the case of the respondents was at all adverted to.

4. In the backdrop of the aforesaid material an inference become inescapable that no effective opportunity of hearing was given to the petitioners. The consequences of setting aside the order of registration of the petitioner society are grave.

5. In the circumstances, it would be in the fitness of things to set aside the order passed by the Minister and remit the revision application bearing No.750 of 2015 before the State Government for afresh consideration and determination on merit.

6. Hence, the following order:

- (i) The petition stands allowed.
- (ii) The impugned order passed by the Minister (Co-operation) on 8th November, 2019 in Revision Application No.750 of 2015 stands quashed and set aside.

- (iii) Consequently, the order passed by the Assistant Registrar dated 26th May, 2014, granting registration to the petitioner society, stands restored.
- (iv) Revision Application No.750 of 2015 stands restored to the file of the State.
- (v) The authority shall provide an effective opportunity of hearing to the parties, who shall appear before it on 20th April, 2020.
- (vi) An endeavour shall be made by the Authority to decide the revision petition as expeditiously as possible and preferably within a period of three months from the date the parties appear before it.
- (vii) It is hereby made clear that this Court has not gone into the merits of the case and all contentions of the parties are expressly kept open for consideration.

The petition accordingly stands disposed of.

7. In view of disposal of the petition, Interim Application No.1 of 2019, does not survive and stands disposed of.

[N. J. JAMADAR, J.]