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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9426 OF 2021**

Suvarna N. Sandhbhor and anr

...Petitioners

V/s.

State of Maharashtra and ors.

...Respondents

Mr. S.S. Kanetkar for the Petitioners.

Mr. C.D. Mali, AGP for the Respondent Nos.1 to 4/State.

Mr. Manoj A. Patil for Respondent Nos.5 and 6.

Mr. Sham D. Gavale (Respondent No.6), Special Recovery Officer of Respondent No.5 Society is present.

CORAM : G. S. KULKARNI, J.

DATE : DECEMBER 22, 2021.

PC :

1] Not on board. Taken on board on an application being moved on behalf of respondent Nos.5 and 6.

2] In the proceedings initiated by respondent Nos.5 and 6 under Section 101 of the Maharashtra Cooperative Societies Act, 1960 (for short “the Act”) the impugned order dated 16.9.2020 had been passed by the Assistant Registrar, Co-op Societies, Pune (respondent No.4).

3] The principal ground on which the petitioners have approached this Court is to the effect that no opportunity of filing a written statement and of a hearing was granted to the petitioners, before impugned order was passed

and consequent Recovery Certificate issued against the petitioners.

3] Learned counsel for respondent Nos.5 and 6 would submit that his clients are agreeable for the impugned order and the Recovery Certificate to be set aside and the proceedings be remanded to the Assistant Registrar, Co-op Societies, Pune (respondent No.4) for afresh consideration, by granting an opportunity of filing a written statement, being the stage as on 18.3.2020 as the Roznama before the authority would reflect.

4] Since the party at whose behest the impugned order came to be passed itself is agreeable that respondent No.4 considers the rival contentions afresh and pass a fresh order, further adjudication of this petition would not be called for. The impugned order dated 16.9.2020 and the consequent Recovery Certificate hence needs to be set aside by consent.

5] Accordingly, the parties are relegated to the Assistant Registrar, Co-op Societies, Pune (respondent No.4) who shall now permit the petitioners to file written statement which shall be filed within two weeks from today with an advance copy to be furnished to respondent Nos.5 and 6. Respondent No.4 shall hear the parties on their respective contentions and pass a fresh order in accordance with law.

6] All contentions of the parties on such proceedings are expressly kept open.

7] It is required to be noted that while granting ad-interim relief, this Court (Coram: M.S. Karnik, J.) by an order dated 25.1.2021 had directed the petitioners to deposit sum of Rs.1 lakh with respondent No.5 and the same accordingly, stands deposited. Mr. Kanetkar, learned counsel for the petitioners, is agreeable that deposit of such amount be maintained with respondent No.5 which shall be without prejudice to the rights and contentions and subject to the final orders that may be passed by the Assistant Registrar, Co-op Societies, Pune (respondent No.4) on the proceedings in question. The said amount be thus retained by respondent No.5.

8] At this stage, Mr. Manoj Patil, learned counsel for respondent Nos.5 and 6 would submit that recovery of substantial amount is in question in the said proceedings, he therefore, submits that an endeavor be made by respondent No.4 to decide the proceedings as expeditiously as possible. The authority certainly would consider such request as being made by respondent Nos.5 and 6 and make an endeavor to decide proceedings positively before 28.2.2022.

9] Ordered accordingly.

10] Writ Petition is disposed of in the aforesaid terms. No costs.

(G. S. KULKARNI, J.)