

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2302 OF 2022

Laxminagar Maratha Co-operative
Housing Society Ltd.

.... Petitioner.

V/s

Shri Krushna Ankush Parab & Ors.

.... Respondents.

Mr. Harish R. Pawar for the Petitioner.

Mr. Rupesh Sohani for Respondent No.1.

Mr. S. H. Kankal, AGP for Respondent Nos. 2 to 4

CORAM : NITIN W. SAMBRE, J.

DATED : 5th JULY, 2022

P.C.:

The Petitioner took out the proceedings under section 101 of the Maharashtra Co-operative Societies Act, 1960 (Hereinafter referred to as 'the Act' for the sake of brevity).

2. In the said proceedings respondent-Deputy Registrar, K/West Ward passed reasoned order on 26/04/2019 directing recovery of Rs.2,76,533/-. To this order, two corrigendums were issued on 10/01/2020 and also on 25/01/2022. It is the case of the Petitioner-Society that as far as the 1st corrigendum order dated 10/01/2020 is concerned the Petitioner-Society was neither put to notice nor heard whereas the AGP claims that the

Petitioner-Society was heard. As far as 2nd corrigendum order dated 25/01/2022 is concerned, admittedly, the Petitioner-Society was not heard.

3. Counsel for Respondents has invited my attention to the Rozanama dated 06.01.2022 so as to claim that when the order dated 25.01.2022 was passed, the Petitioner was present on 06.01.2022 and the matter was adjourned. As a consequence of above hearing, the impugned order dated 25.01.2022 came to be passed.

4. It appears that initial Recovery Certificate was for an amount of Rs.2,76,533/-. The subsequent impugned order dated 10/01/2020 is issued directing to the Petitioner-society to refund an amount of Rs.14,765/- whereas the 3rd impugned order dated 25.01.2022 speaks of the directions of refund of amount of Rs.2,32,862/- by the Petitioner-society to the private respondents.

5. The fact remains that the corrigendums to the said order are issued without hearing the parties to the Petition.

6. Apart from the above, the fact remains that the amount of refund ordered which is under challenge is in relation to refund of

50% of the amount deposited with the Petitioner consequent to the revision preferred by the Respondent No. 2 against the order passed under section 101 of the Act whereby the Recovery Certificate was issued.

7. As it is not clear as to whether the last two orders dated 10.01.2020 and 25.01.2022 were passed after issuing notice and hearing the parties so also it is apparent that in first order dated 26.04.2019 there is material correction which has promoted the Deputy Registrar, K/West Ward to pass subsequent orders of 10/01/2020 and 25/01/2022, in my opinion all the three orders need to be quashed and set aside.

8. Let all the parties to the Petition appear before the Deputy Registrar, K/West Ward on 19/07/2022. The Deputy Registrar, K/West Ward shall hear the parties to the Petition afresh and shall pass fresh orders and in any case within eight weeks from 19/07/2022.

9. It is clarified that the Petitioner is directed to deposit the amount of Rs.2,50,000/- with Deputy Registrar, K/West Ward on or before 18/07/2022.

10. After the aforesaid amount is deposited with Deputy Registrar, K/West Ward by the Petitioner, Deputy Registrar, K/West Ward to pass the order after hearing the parties.

11. Petition to stand disposed of.

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(NITIN W. SAMBRE, J.)