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

WRIT PETITION NO. 5818 OF 2022

Poonam Chambers 'B' Wing Commercial
Premises Co-operative Society Ltd, through
its Hon.Secretary/Chairman & Ors. ...Petitioners

Versus

The Hon'ble Divisional Joint Registrar CS,
Mumbai Division & Ors. ...Respondents

Mr. Subhash Jha a/w Ms. Mansi Jain for the Petitioners.

Ms. S. D. Vyas, 'B' Panel Counsel, for the Respondent–State.

Mr. Bhavin Gada a/w Mr. Atul Thakkar, for the Respondent No.4.

**CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.**
DATED : 6th MAY 2022

P.C. :

1. Heard Mr. Subhash Jha, learned counsel for the Petitioners, Ms. S. B. Vyas learned 'B' Panel Counsel for the Respondent-State and Mr. Bhavin Gada, learned counsel for the Respondent No.4.

2. The Petitioners have impugned the order dated 26th April 2022 passed in Appeal No.12 of 2022 by the Respondent No.1-Divisional Joint Registrar Co-operative Societies. The Petitioners have also sought relief seeking direction to Respondent No.1-Divisional Joint Registrar Co-operative Societies to hear and decide the said Appeal after granting just, fair and proper opportunity of hearing to the Petitioners.

3. The said Appeal No.12 of 2022 is filed before the Respondent No.1-Divisional Joint Registrar Co-operative Societies, Mumbai Division challenging the order dated 11th January 2022 passed under Section 78A (1) (B) and 77A of the Maharashtra Co-operative Societies Act, 1960. By the said order dated 11th January 2022, the Petitioner No.2, Petitioner No.3 and Petitioner No.4 were removed as committee members of the Petitioner No.1-Society and further they were disqualified to hold post of member of managing committee of any of the societies. In the said Appeal by order dated 3rd February 2022, the above referred impugned order dated 11th January 2022 is stayed by directing the Petitioners to operate the society's account for payment of the statutory and day to day outstanding dues of the said Society and the Appeal is kept for hearing on 13th June 2022.

4. It is the contention of Mr. Bhavin Gada, learned counsel for the Respondent No.4 that inspite of order dated 3rd February 2022, the Petitioners were taking policy decisions and therefore, by letter dated 22nd February 2022, the Respondent No.4 sought preponing of the date of hearing of the said Appeal. It appears that, as per said Application, the matter was preponed to 26th April 2022 and on 26th April 2022, the Respondent No.1- Divisional Joint Registrar Co-operative Societies passed the following order:-

“Adv. Preeti Reddi i/b Adv. Usha Tiwari for appellant present & filed an adjournment application.

Adv. Subhash Yadav for intervener present & filed reply cum W.A.

Heard both parties on main appeal.

The case is closed for final order with liberty to file WA/W.S. within 02 weeks.

Earlier order of stay to continue till final order passed.”

5. It is the contention of Mr. Subhash Jha, learned counsel for the Petitioners that no proper opportunity is given by the Respondent No.1- Divisional Joint Registrar Co-operative Societies and therefore, principles of natural justice are not followed.

6. Mr. Bhavin Gada, learned counsel for the Respondent No.4 submitted that the Petitioners are deliberately delaying the hearing of the Appeal and are taking policy decisions. He, however, submits that he has no objection if the matter is heard afresh.

7. Ms. Vyas, learned 'B' Panel Counsel for the Respondent No.1-Divisional Joint Registrar Co-operative Societies submitted that Respondent No.1 will hear the Appeal as per the directions of this Court.

8. In view of the above submissions and in the facts and circumstances of this case, we pass the following order:-

ORDER

- i. Order dated 26th April 2022 passed by the Respondent No.1-Divisional Joint Registrar Co-operative Societies is quashed and set aside.
- ii. The Appellants i.e. present Petitioners and Respondent No.3 shall appear before the Respondent No.1-Divisional Joint Registrar of Co-operative Societies on 11th May 2022 at 11.00 a.m. On that day, Respondent No.1-Divisional Joint Registrar Co-operative Societies

shall fix the date of hearing of the Appeal and thereafter, Appeal be heard within a period of three weeks. The final order on Appeal be passed within a period of two weeks thereafter.

9. We make it clear, that we have not gone into the merits of the case and as such, all contentions of all the parties are kept open.

10. All concerned to act on an authenticated copy of this order.

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.