

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 8735 OF 2021**

M/s. Blue 1 Inc.

.....Petitioner

Vs.

Deputy Registrar Of Co-op.
Societies & Ors.

.....Respondents

Adv. Murtaza Najmi a/w Mr. Rakesh Mishra a/w Adv. Bindu Tiwari i/by
Adv. Ashish Mishra for the Petitioner.

Mr. P.P. Pujari, AGP for the Respondent No.1–State.

Adv. Badrashetye a/w Adv. Raghvendra S. Mehrotra i/by M/s. Lawkhalt
Regal Advocate and Legal Consultants for the Respondent No.2.

CORAM : A. S. GADKARI, J.**DATE : 13th APRIL, 2022.****P.C.:-**

At the outset, Mr. Badrashetye, learned counsel for Respondent No.2 raised a preliminary objection and submitted that, against the Order dated 31st August, 2015, impugned herein a substantive alternate statutory remedy under section 154 of the Maharashtra Co-operative Societies Act, 1960 (for short “said Act”) is available and without availing the said statutory alternate remedy, Petitioner has directly approached this Court by invoking its jurisdiction under Articles 226 and 227 of Constitution of India.

2 It is the settled position of law and as has been decided in a catena of decisions by Hon’ble Supreme Court, ordinarily the Court will not

entertain a Petition under Article 226/227 of the Constitution of India, where the Petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Though no hurdle can be put against the exercise of the constitutional powers of the High Court it is a well-recognized principle which gained judicial recognition that, the High Court should direct the party to avail himself of such remedies one or the other before he resorts to a constitutional remedy.

Reliance is placed on the following decisions-

- i) *Thansingh Nathmal Vs. The Superintendent of Taxes, Dhubri & Ors. reported in AIR 1964 SC 1419 .*
- ii) *A. Venkatasubbiah Naidu Vs. S. Chellappan & Ors. reported in (2000) 7 SCC 695.*
- iii) *Shalini Shyam Shetty & Anr. Vs. Rajendra Shankar Patil reported in (2010) 8 SCC 329.*
- iv) *Radhey Shyam & Anr. Vs. Chhabi Nath & Ors. reported in (2015) 5 SCC 423.*
- v) *Genpact India Private Limited Vs. Deputy Commissioner of Income-Tax & Anr. Reported in (2019) 419 ITR 440 (SC).*
- vi) *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Ors. Vs. Tuticorin Educational Society & Ors. reported in (2019) 9 SCC 538.*

3 In view thereof, Mr. Najmi, learned counsel for the Petitioner, seeks

leave to withdraw the present Petition with liberty to avail said substantive alternate statutory remedy as contemplated under Section 154 of the said Act before the Competent Authority.

Leave and liberty granted.

4 Writ Petition is disposed off as withdrawn, with aforesaid liberty.

(A.S. GADKARI, J.)