

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8879 OF 2021

Sudha Narayan Dharap & Ors.

.. Petitioners

Versus

The District Deputy Registrar Co-operative
Societies, Thane & Ors.

.. Respondents

-
- Mr. Kailas S. Dewal i/by Mr. Yash K. Dewal for the Petitioners
 - Mr. Ashutosh Gole for the Respondent No. 2
 - Mr. P.V. Nelson Rajan, AGP for the State
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 25, 2022

P.C.:

1. Heard the learned Advocates appearing for the parties.
2. The Petitioners assert that the impugned Judgment and Order dated 27.09.2021 passed by Respondent No. 1 - District Deputy Registrar, Co-operative Societies, Thane in Application No. 189 of 2021 has been passed without hearing the Petitioners. The following dates shall reveal the same:

2.1. Sometime in January 2021, Respondent No. 2 Society made an Application to Respondent No. 1 for seeking deemed conveyance of the subject property. Notices were issued to the parties fixing the hearing on 01.03.2021, on which date the parties appeared and

sought time to file their pleadings. Petitioners filed their reply to the Application. Thereafter sometime in August 2021, the Respondent No. 2 filed an additional affidavit in respect of the Application for seeking deemed conveyance by bringing additional facts on record. On 01.09.2021 when the matter appeared before Respondent No. 1, the Petitioners requested Respondent No. 1 to permit the Petitioners to appoint an Advocate to represent the Petitioners in the proceedings and argue on their behalf for a fair and complete adjudication of the case. However on 01.09.2021, the Respondent No. 1 closed the matter for orders. Perusal of paragraph No.1 of the impugned order reads that the parties were given opportunity of hearing from time to time, which is *prima facie* incorrect.

3. Learned Advocates appearing for the parties today are *ad idem* that apart from the aforesaid dates, there were no other dates fixed for hearing before the Respondent No. 1. Learned AGP also confirms the same.

4. It is apparent and clear that without giving an adequate opportunity of hearing to the affected parties, the impugned order has been passed which is in gross violation of the principles of natural justice. The impugned order decides substantive rights of the parties and therefore requires the quasi judicial Authority to hear the parties

and pass the order only after hearing.

5. In view of the above, the impugned Judgment and Order dated 27.09.2021 is quashed and set aside. Respondent No. 1 shall give a fresh hearing to all concerned parties and pass a speaking order after hearing the Petitioners and Respondent No. 2 within a period of four weeks from today.

6. Parties and / or their Advocates shall appear before the Respondent No. 1 on 28.03.2022 at 12.00 noon and advance their submissions before Respondent No. 1. They may also file their written submissions, additional documents and supporting case laws.

7. All contentions of the parties are expressly kept open.

8. In view of the above directions, the Writ Petition stands disposed of.

9. Parties to act on an authenticated copy of this order duly authenticated by the Private Secretary / Personal Assistant of this Court.

[MILIND N. JADHAV, J.]

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by RAVINDRA
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AMBERKAR
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