

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12783 OF 2015

Balasaheb Shivajirao Deshmukh & Ors.

.. Petitioners

Versus

State of Maharashtra & Ors.

.. Respondents

.....

- Mr. Shrikrishna R. Ganbavale a/w Mr. Kush Lahankar for Petitioners
- Mrs. V.S. Nimbalkar, AGP for State

.....

CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 13, 2022

P.C.:

1. Heard Mr. Ganbavale, learned counsel appearing for Petitioners and Mrs. Nimbalkar, learned AGP appearing for State.

2. Perused the order dated 14.02.2013. Perusal of the said order clearly reveals that the Competent Authority i.e. District Deputy Registrar of the Co-operative Housing Society, Kolhapur (Respondent No. 2 herein) has stated in the said order that in terms of Section 78 of the Maharashtra Co-operative Societies Act, 1960 it is incumbent upon the Federal Society to give its substantial report and only after consultation with the Federal Society, the final decision needs to be taken. However, in the present case, it is further recorded in the said order that the report from the Federal Society was not received and it has been deemed and assumed to have been received by the Competent Authority and on that basis, the said order has been

passed. This order passed by Respondent No. 2 has been confirmed by Respondent No. 1 – State by its order dated 01.12.2015 without dealing with the aforesaid grievance of Petitioners.

3. The impugned order dated 01.12.2015 is completely devoid of the aforesaid issue raised by Petitioners. In that view of the matter, the impugned order dated 01.12.2015 is not sustainable and is hereby set aside. In addition, the earlier order dated 14.02.2013 also stands set aside and the matter is remanded back to Respondent No. 2 for a fresh hearing and consideration after obtaining the Report from the Federal Society.

4. Mr. Ganbavale submitted that pleadings are completed in the matter. Show-cause-notice has been adequately replied thereto. In that view of the matter, Respondent No. 2 is directed to first call for Report from the Federal Society within a period of six weeks from today. On receipt of the Report, copy of the same shall be given to Petitioners. Thereafter Petitioners shall be heard within a period of six weeks thereafter and the show-cause-notice shall be decided. Respondent No. 2 is directed to pass a reasoned order after hearing the Petitioners and in the event, if the order is adverse to Petitioners, the same shall be stayed for a further period of two weeks thereafter.

5. Petitioners are permitted to file their written submissions and case laws in support of their case.

6. If required, representative of the Federal Society can also appear before Respondent No. 2 and address Respondent No. 2 in respect of Petitioners' case during the hearing.

7. With the above directions, Writ Petition stands disposed of.

[MILIND N. JADHAV, J.]

RAVINDRA
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AMBERKAR

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