

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2341 OF 2022

Tanaji Deogirikar and Ors.

...Petitioners

Versus

The Assistant Registrar, Co-operative Societies
And Ors.

...Respondents

...

Mr. Nitin P. Deshmukh, for Petitioners.

Mr. Abhijit Desai i/by Mr. Prabhakar M. Jadhav for Respondent No.5.

Mrs. V.S. Nimbalkar, A.G.P. for Respondent Nos.1 to 4.

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CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 06, 2023.

P.C.:

1. By this Petition, Petitioners have set up a challenge to the order dated 9 February 2022 passed by the Divisional Joint Registrar, Co-operative Society, Pune Division, Pune allowing Revision Application No.38 of 2022 filed by Respondent No.5-Society. By that order, the Divisional Joint Registrar has set aside the order dated 8 February 2021 passed by the Assistant Registrar, Co-operative Societies, Pune for liquidation of the Respondent No.5-Society and has remanded the proceedings for fresh consideration to the Assistant Registrar after granting opportunity of hearing to Respondent No.5-Society.

2. When the present Petition came up before this Court on 4 August 2022, this Court passed following order:

1] On 8/2/2021 in exercise of powers under Sections 102 and 103 of the Maharashtra Co-operative Societies Act, the Assistant Registrar has passed an order directing final liquidation of Respondent – Shree Datta Sahakari Samudayik Sheti Sanstha Maryadit. The said order preceded with provisional order of liquidation dated 29/10/2020. I am informed that challenge to the said order dated 29/10/2020 has attained finality before this Court. As far as the aforesaid order dated 8/2/2021 passed by the Assistant Registrar thereby directing final liquidation is concerned, same has been questioned by the Respondent-Society before Divisional Joint Registrar under Section 154 of the Maharashtra Co-operative Societies Act which Revision came to be allowed vide impugned order dated 9/2/2022.

2] Amongst other reasons furnished for setting aside final order of liquidation are (a) order of the Minister passed on 7/2/2019 is not taken into account by the Assistant Registrar, (b) before passing final order, Society was not served with the notice, so also spot inspection was not carried out (c) the record of the Society depicts that audit of the Society is completed till 31.3.2020 and yearly report of short-falls in the audit and report as regards election to the Society have been submitted.

3] It appears that the Divisional Joint Registrar has shown complete disregard to the detailed observations made by Assistant Registrar in the final order of liquidation. In most cryptic and vague manner said Authority has reversed the findings of the Assistant Registrar and remanded the matter for reconsideration merely for asking.

4] It appears that Assistant Registrar while passing the final order of liquidation has not only dealt with complete claim put-forth by the Respondent-Society including detail contentions but has exhaustively dealt with the mode and manner in which objectionable transactions were made by the office bearers of the Respondent-Society. Though Respondent-Society has placed on record audit report, yearly working report, details of which are neither referred nor discussed or verified by the Divisional Joint Registrar (Ms. Sangita Dongre). The order of Divisional Joint Registrar, in my opinion, is not at all sustainable. Before passing final order of liquidation, against the provisional order, Respondent-Society has lodged its objection.

Assistant Registrar has specifically carried out spot inspection and visited the Society so also property of the society i.e. farm land as is reflected in final order of the Assistant Registrar. Assistant Registrar thereafter examined the record of the Society and noticed that in 2019 and 2020 six meetings of the Society were convened. He has noticed that cash book, account book of the Society were not made available for the purpose of inspection. Apart from above, there was complete non-cooperation from the office bearers of the Respondent-Society in the matter of maintenance of record of the Society. Objections in the Audit Report were duly noted by the Assistant Registrar whereas Divisional Joint Registrar has completely ignored the same and has passed the cryptic order which can be at its face value viewed as arbitrary. Apart from above, Assistant Registrar has specifically dealt with the mode and manner in which finances of the Respondent-Society are mismanaged by its office bearers. Perusal of the instances in relation to management of the finances of the Respondent-Society primarily depicts that office bearers of the Society have treated funds of the Society so also its properties as their own i.e. as if the same are their personal property and have dealt with the same. Divisional Joint Registrar while passing the order impugned has conveniently ignored the same without going into details thereof.

5] In that view of the matter, this Court directs that order impugned passed by the Divisional Joint Registrar dated 9/2/2022 shall remain stayed. This Court further directs the Divisional Joint Registrar to file her personal affidavit as this Court has noticed in number of matters the orders being passed by the said Officer contrary to the record. This Court expects the said Officer to file affidavit in any case by 29th August, 2022.

6] Let the matter be listed for consideration on 12th September, 2022. Matter be shown first on board.”

3. In pursuance of the order passed by this Court on 4 August 2022, Sangeeta R. Dongare, the then Joint Registrar of Co-operative Societies, Pune, who has passed the impugned order dated 9 February 2022 has filed an Affidavit offering justification for passing the impugned order.

4. Mrs. Nimbalkar, the learned A.G.P. would submit that Smt. Sangeeta Dongare no longer occupies the post of Divisional Joint Registrar, Co-operative Societies, Pune Division, Pune and that she has been transferred and posted as Joint Registrar, CIDCO.

5. As observed by this Court in its order dated 4 August 2022, the then Divisional Joint Registrar, Co-operative Societies has not applied mind to various findings recorded by the Assistant Registrar and has proceeded to pass a cryptic order dated 9 February 2022 remanding the proceedings to the Assistant Registrar. In that view of the matter and considering the fact that the officer, who had passed order dated 9 February 2022 has since being transferred, it would be appropriate that the order dated 9 February 2022 is set aside and the Revision Application No.38 of 2022 is remanded to the Divisional Joint Registrar, Co-operative Societies, Pune Division Pune for decision of the Revision Application afresh.

6. Accordingly the present Petition is disposed of by setting aside order dated 9 February 2022. The Revision Application No.38 of 2022 stands remanded to the Divisional Joint Registrar, Co-operative Societies, Pune Division Pune, who shall decide the same strictly on its own merits,

without being influenced by any of the observations made by this Court in order dated 4 August 2022.

7. All contentions of the parties including the locus of the present Petitioners to intervene in the proceedings filed before the Divisional Joint Registrar, Co-operative Societies, Pune Division Pune are kept open.

8. With the above directions, Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)