

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

WRIT PETITION NO.5527 OF 2023

Tanhaji Mahadev Deshmukh & Anr. Petitioners
versus
Deepak Khandekar & Ors. Respondents

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- Mr. R. S. Datar i/b. Akshay J. Kandarkar, Advocate for Petitioners.
- Mr. S. H. Kankal, AGP for Respondent Nos.2, 3 and 4.

CORAM : SARANG V. KOTWAL, J.
DATE : 24th APRIL 2023

P.C. :

1. Heard Mr. R. S. Datar, learned counsel for the Petitioners and Mr. S. H. Kankal, AGP for the Respondent Nos.2, 3 and 4.

2. The Petitioners have challenged the order dated 24/02/2023 passed by the Divisional Joint Registrar, Co-operative Societies, Konkan Bhavan, Navi Mumbai, passed in Revision Application No.76/2021. By the impugned order the Revision Application was rejected and the enquiry report dated 31/03/2021 prepared by the competent authority was confirmed. The record shows that after the enquiry report was

made on 31/03/2021 u/s 83 of the Maharashtra Co-operative Societies Act, 1960 (for short 'MCS Act'). The Deputy Registrar, Co-operative Societies, Kalyan Taluka, Kalyan has passed an order dated 11/08/2021 directing the enquiry u/s 88 of the MCS Act.

3. Learned counsel for the Petitioners submitted that in the impugned order there are no reasons given except mentioning that the enquiry officer had conducted the enquiry based on the documents submitted by the complainant Ramchandra Patil and on the basis of the available record of the society and because of that there was no force in the submission that the enquiry was conducted without examining the record of the proceedings. Learned counsel for the Petitioners submitted that besides this reason there is no other reason given in the impugned order and therefore, the matter needs to be remanded back.

4. Learned AGP opposed these submissions and he further submitted that the Petitioners have an opportunity to point out

that the misappropriation is not committed and they are not liable when they participate in the enquiry u/s 88 of the MCS Act.

5. I have considered these submissions. At this stage, there is no reason to take a different view from the one taken by the Revisional authority. The matter has not concluded after the enquiry report was submitted. Further order was passed on 11/08/2021 by the Deputy Registrar, Co-operative Societies, Kalyan Taluka, Kalyan, for conducting procedure u/s 88 of MCS Act r/w Rule 72 of MCS Rules. Thus Petitioners are required to explain all these aspects which are mentioned and summarized specifically in the enquiry report. Therefore, at this stage, I am not inclined to interfere with the ongoing enquiry. It is made clear that all the contentions raised by the Petitioners on merits of the matter, are left open which can be taken into consideration in the enquiry u/s 88 of the MCS Act.

6. With these directions, the Petition is disposed of.

(SARANG V. KOTWAL, J.)