

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13313 OF 2023

Smt. Suvarna Narendra Sandhbhor & Anr.

...Petitioners

Versus

The State of Maharashtra

Through Its Secretary Dept of Co-Op. Marketing
and Textile & others

...Respondents

...

Mr. Shailendra S. Kanetkar, for Petitioners.

Mr. Manoj A. Patil, for Respondent No.5.

Mr. P. P. Pujari, A.G.P. for Respondent Nos.1 to 4.

...

CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 25, 2023

P.C.:

1. The challenge in the present Petition is to the order dated 23 February 2022 passed by the Assistant Registrar, Co-operative Societies issuing Recovery Certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960. It is common ground that the Recovery Certificate has been issued in absence of the Advocate engaged by the Petitioners. Therefore in ordinary course of things, though the Petitioners have alternate remedy of filing revision before the Divisional Joint Registrar, instead of relegating the

Petitioners to the alternate remedy, it would be appropriate if the proceedings are remanded before the Assistant Registrar for being heard and decided afresh. Accordingly, the order dated 23 February 2022 is set aside and the proceedings are restored on the file of Assistant Registrar for being decided afresh. The Assistant Registrar shall proceed to decide the proceedings filed by the Society after granting opportunity of hearing to the Petitioners.

2. So far as the prayer of the Petitioners for supply of documents is concerned, there appears to be some debate amongst the parties as to whether the said documents are actually supplied or not. Mr. Manoj Patil, the learned counsel appearing for Respondent No.5-Society would contend that all the required documents have already been supplied to the Petitioners. Mr. Kanetkar, the learned counsel appearing for Petitioners would contest this position and submit that application for supply of documents is already pending before the Assistant Registrar. Accordingly, before deciding the recovery proceedings, the Assistant Registrar would also take a decision on the application filed by the Petitioners for supply of documents.

3. Parties to appear before the Assistant Registrar on 1 November 2023 and it shall not be necessary for the Assistant Registrar to issue fresh notices to any other parties.

4. The Assistant Registrar shall make an endeavour to decide the recovery proceedings as expeditiously as possible, preferably by 31 December 2023.
5. Since the Recovery Certificate issued by Assistant Registrar is set aside and the proceedings are remanded for being decided afresh, all the consequential notices and orders issued in pursuance of the Recovery Certificate are also set aside.
6. With the above directions, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)