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

WRIT PETITION NO. 7298 OF 2023

Kamla Spaces Premises Co-operative
Society Ltd. ...Petitioner
Versus
Satinderpal Singh Ahuja And Ors. ...Respondents

**WITH
WRIT PETITION NO. 7299 OF 2023**

Kamla Spaces Premises Co-operative
Society Ltd. ...Petitioner
Versus
Kunal Uttam Jain And Ors. ...Respondents

**WITH
WRIT PETITION NO. 7398 OF 2023**

Kamla Spaces Premises Co-operative
Society Ltd. ...Petitioner
Versus
Satinderpal Singh Ahuja And Ors. ...Respondents

**WITH
WRIT PETITION NO. 7399 OF 2023**

Kamla Spaces Premises Co-operative
Society Ltd. ...Petitioner
Versus
Arvinderpal Singh Ahuja And Ors. ...Respondents

Adv. Usha Tiwari a/w Adv. Manshi Jain for the Petitioner.
Adv. Aseem Naphde a/w Adv. Parth T. i/b Aditya Bhatt for
Respondent No.1.

Mr. Abdullah Qureshi a/w Mr. Arjun Sathees i/b India Law LLP for Rajeiv Mannadiar, Liquidator Respondent No.4 in WP/7298/23, WP/7398/23 and WP/7299/23 and Respondent No.5 in WP/7399/23

CORAM: N. R. BORKAR, J
DATED: 21 JULY, 2023

PC:-

1. The present petitions are filed against the order passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai dated 08 May 2023 in Revision Application Nos. 393 of 2022 to 395 of 2022. The operative part of the impugned order reads thus:

“1. The Revision Application Nos. 393/2022 to 395/2022 are partly allowed.

2. The impugned orders dated 19/04/2022 passed by the Respondent No. 2 Deputy Registrar, Co-operative Societies, H/W-ward, Mumbai u/s 154B- 12 of the M.C.S. Act, 1960 are hereby quashed and set-aside.

3. The cases are remanded back to the Respondent Deputy Registrar, Co-operative Societies, H/W-ward, Mumbai for fresh consideration and decision on merits and in accordance with law.

4. No order as to costs.”

2. The only reasoning for above remand reads thus:

“The Respondent Deputy Registrar while passing the impugned orders have mainly drawn the conclusion that Hon’ble National Company Law Tribunal by order dated 27/02/2019 has initiated liquidation process of the said Developer as per Insolvency and Bankruptcy Code, 2016. Further, there is Symbolic Possessions of the suit Units.

On the aforesaid issues, it is pertinent to note that the Authorities under M.C.S. Act 1960 do not have jurisdiction to determine the title of the property and legality of the

documents/Agreements. Further, it seems that the said Developer has given possessions of suit Units to the Applicants herein. Therefore, the above facts have not been considered by the Respondent Deputy Registrar while passing the impugned orders.”

3. It is well settled that the power of remand should be used sparingly and only in cases where the appellate/revisional authority, after an examination of the material already placed on record by way of evidence, takes the view that it is not possible for it to make a just order on the appeal/revision without the assistance of further evidence or without the assistance of clear findings by the authority from whose order appeal/revision is filed.

4. In the impugned order there is no finding that without the assistance of further evidence or due to lack of clear findings in the order of authority against which appeal or revision is filed, no just order can be passed.

5. The order impugned is thus set aside. The Revision Applications are restored on the file of the Divisional Joint Registrar for deciding them afresh. The Divisional Joint Registrar shall endeavour to decide the Revision Applications as early as possible.

6. Writ petitions are disposed of, in above terms.

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

(N. R. BORKAR, J.)