

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14506 OF 2022

Bima Nagar CHS Ltd. ... Petitioner

Versus

The Divisional Joint Registrar Coop. Societies & Ors. ... Respondents

Mr. Amar G.H. i/b. Mr. Kiran V, Hublikar for the petitioner.

Mr. Sachin H. Kankal, AGP for the State/respondent nos. 1 and 2.

CORAM: G. S. KULKARNI, J.
DATED: 19 January 2023

P.C.

1. Not on board. Upon mentioning, taken on board on a praecipe as moved on behalf of the petitioner.
2. Heard Mr. Amar, learned counsel for the petitioner and Mr. Kankal, learned AGP for respondent nos. 1 and 2.
3. Learned counsel for the petitioner states that respondent no. 3 was attempted to be served but she is presently staying at Pune. Respondent no. 3 has been informed of the present proceedings being moved before this Court by SMS message, whatsapp message and also through the person who is occupying her premises in the petitioner-society.
4. The urgency as set out by the learned counsel for the petitioner is that respondent no. 2 along with authorized officer is taking steps to execute the

order dated 28 March, 2022 passed by respondent no. 2 wherein respondent no. 3 has been directed to be accepted as member of the Society and for issuance of share certificate in favour of respondent no. 3. The contentions as urged on behalf of the petitioner is that the said order passed by the Deputy Registrar Cooperative Societies under section 23(2) of the Maharashtra Cooperative Societies Act (for short “**the MCS Act**”) has already been assailed by the petitioner by approaching the Divisional Joint Registrar Cooperative Societies by filing a Revision Application under section 154 of the MCS Act. It is submitted that the revision was filed on 19 April, 2022 and on 21 April, 2022 certain objections were raised, to the effect that there was no resolution of the General Body or the approval of the Deputy Registrar to file such revision as also there were some other objections. His contention is that the election of the Society were held sometime in May, 2022 when a new Managing Committee was formed on 11 May, 2022, which decided to prosecute the proceeding of revision application filed before the Divisional Joint Registrar. His submission is that by an application dated 23 June, 2022 all these subsequent events and removal of objection was placed on record by the petitioner before the Divisional Joint Registrar. His contention is that despite such application, the Office of Divisional Joint Registrar has mechanically issued a letter dated 18 July, 2022 raising objections. It is his contention that the objections as intimated to the petitioner by the office of Divisional Joint

Registrar by its letter dated 18 July, 2022 have already been removed. The concern of the petitioner is that for some reason, the proceedings of the revision are not been heard and on the other hand, respondent no. 2 is attempting to forcefully execute the order dated 28 March, 2022 passed by the Deputy Registrar Cooperative Societies. In the aforesaid circumstances, learned counsel for the petitioner submits that the Divisional Joint Registrar be directed to take up the Revision Application and decide the same in accordance with law and in the meantime, the impugned order passed by the Deputy Registrar Cooperative Societies be not acted upon.

5. Learned AGP has opposed the petition on the ground that no cause has been made out by the petitioner to approach this Court. He prays that the petition be dismissed.

6. Having heard the learned counsel for the parties, in my opinion, as the petitioner has already preferred a Revision Application before the Divisional Joint Registrar and as all the objections have been removed, it is appropriate that the Divisional Joint Registrar accepts the proceedings of Revision Application or any Miscellaneous proceedings thereunder for adjudication and pass appropriate orders as per law. It also appears to be quite clear that although initially proceedings were filed and Administrator was in-charge of the petitioner-society, but subsequently elections were held in the month of

May, 2022 and a new Managing Committee has taken charge on 11 May, 2022. The new Managing Committee has already placed the Application before the Divisional Joint Registrar. If that be so, in my opinion, the Divisional Joint Registrar is required to consider all these circumstances and pass appropriate orders on this revision application.

7. Writ Petition is accordingly disposed of by the following order:
 - (i) The Divisional Joint Registrar is directed to take up the Revision Application filed by the petitioner along with Miscellaneous Application and pass appropriate orders in accordance with law;
 - (ii) Till the proceedings of Revision Application or any Miscellaneous Application for stay are taken up and appropriate orders are passed, the impugned order dated 28 May, 2022 passed by the Deputy Registrar Cooperative Societies/respondent no. 2 be not acted upon;
 - (iii) Let affidavit of service on respondent no. 3 be placed on record of this petition within two days from today.
8. Disposed of in the above terms. No costs.
9. Parties to act on the authenticated copy of this order.

(G. S. KULKARNI, J)

Corrected as per speaking to minutes order dated 30 January, 2023.