



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO. 7341 OF 2023

VISHWANATH GUNDAPPA KARLE

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS CHIEF SECRETARY
AND OTHERS**

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Mr. Pravin B. Rakhunde – Advocate for Petitioner

Ms. D.S. Jape – AGP for Respondent Nos.1 to 5

Mr.M.S. Karad h/f. Mr.S.S. Thombre – Advocate for Respondent No.8

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CORAM : KISHORE C. SANT, J.

DATE : 18th DECEMBER, 2024

PER COURT :

1. Heard the parties.
2. The petitioner in this case is the person sold his land to one Kishor Tukaram Kadam i.e. father of respondent Nos.7-a to 7-c and house property to respondent No.8. Thereafter, he filed a complaint before the District Deputy Registrar, Cooperative Societies, Osmanabad under the Money Lenders Act raising grievance that the sale transaction was in fact under security towards loan taken by the petitioner. In the said case, respondent No. 8 filed an application giving direction to the Assistant Registrar, Cooperative Societies, Tulajpur to make an enquiry. However, the enquiry was not conducted personally but was conducted by Class-I Officer from the

office of Assistant Registrar, Tq. Tuljapur. It was thus submitted that, the direction or the order passed by the D.D.R. based on the enquiry report by Cooperative Officer Class-I is without authority.

3. The learned D.D.R. rejected said application stating that the Class-I Officer of Cooperative Society department was having authority as per the government order and rejected the application. The said order was challenged by respondent No.8 by filing an appeal before the Divisional Joint Department, Latur. The Divisional Joint Department held that, no appeal is maintainable under Section 18(4) of the Act, as the order passed by the learned D.D.R. was an interlocutory order and not a final order.

4. Being aggrieved by this order passed by the Divisional Joint Registrar, respondent No.8 preferred a revision before the Commissioner Cooperative Societies and Registrar General, Pune. In the revision the regional authority allowed the revision and set aside the order passed by the District Deputy Registrar Cooperative society dated 31.01.2017.

5. The petitioner thus aggrieved by this order has approached this Court by filing this writ petition. The petitioner raised a ground that, when the Appellate Authority has rightly held that, the appeal is not

maintainable still the authority entertained the revision application against that order. Secondly, the main appeal itself is not maintainable, there was no question of revision being maintainable. Third ground raised is that, in fact the government by notification dated 13th July, 2016 has very much authorised even Class-I Officer working in the office of District Deputy Registrar, Assistant Registrar of Class-I Officer of Class-II Officer of Cooperative Department. In view of this, an enquiry was rightly conducted by a person authorised. In this case the conduct of the Class-I from the office of Assistant Registrar and thus, no illegality is committed and submitted the report of the said authority by the said officer.

6. Learned Counsel for respondent No.8 vehemently opposes the petition. He submits that, the revision was maintainable in view of Section 9 of the Act. The Registrar General has power to examine the record of an enquiry of proceeding of any matter where the order has been passed or decision has been given. Section 9 is reproduced here:

Section 9 – Registration.

(1) If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules, [or any other law for the time being in force, or policy directives issued by the State Government under section 4] [These words and

figures were inserted by Maharashtra 20 of 1986, 6(a)(i)] and that its proposed bye-laws are not contrary to this Act or to the rules, he [shall, within two months] [These words were substituted for the words 'may, within six months,' by Maharashtra 20 of 1986, Section 6(a)(ii).], from the date of receipt of the application register the society and its bye-laws.

(2) Where there is a failure on the part of the Registrar to dispose of suet application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within that period, the society and its bye-laws shall be deemed to have been registered [and thereafter the Registrar shall issue a certificate of registration under his seal and signature within a period of fifteen days] [Sub-section (2) was substituted for the original by Maharashtra 20 of 1986, Section 6(b)]

(3) Where the Registrar refuses to register a proposed society, he shall forthwith communicate his decision, with the reasons therefor, to the person making the application and if there be more than one to the person who has signed first therein.

(4) The Registrar shall maintain a register of all societies registered, or deemed to be registered, under this Act.

7. He thus submits any order passed by the authorities can be challenged and there is no jurisdictional error committed by the Registrar General. There is no mention of Class-I Officers from the office of District Deputy Registrar and from the Assistant Registrar.

8. Learned A.G.P. submits that, in view of the application dated

13th July, 2016 the Class-I Officer from the Assistant Registrar Office and Class-II Officer from the Cooperative Department are authorised to carry out inspection under Section 16. In view of this the enquiry/ investigation by Class-I Officer was clearly authorised to conduct inspection and prays for appropriate order.

9. Considering above, for the present this Court finds that, the Officer who conducted investigation had a power to do so in view of notification dated 13th July, 2016 that the Officer of Class-I from the office of Class-I Deputy Registrar/Assistant Registrar or the Officer grade – II of Cooperative Societies are authorised to exercise powers under Section 16 of the Act. This Court thus finds the order passed by the Registrar General is clearly against the notification dated 13th July, 2016. He has committed illegality in setting aside the order of investigation/inspection report prepared by the Class-I Officer from the office District Deputy Registrar.

10. Consider above the writ petition stands allowed in terms of prayer clauses 'C', 'D' and 'E'.

11. No order as to costs.

[KISHORE C. SANT, J.]