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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7908 OF 2023**

Smt. Jaya Nigam and Another ... Petitioners

Vs.

Mr. Bajirao Shinde and Others the ... Respondents

Divisional Joint Registrar Co-operative
Societies, Mumbai Division.

Mr. Akshay Kapadia for the Petitioners.

Mr. Ketan Joshi i/b. Mr. Renuka Birajdar for Respondent No. 4.

Mr. Surel Shah i/b. Mr. Vishwajeet Mohite for Respondent No. 3.

Ms. M. P. Thakur, AGP for the State.

CORAM : GAURI GODSE, J.

DATE : 17th JANUARY 2024

P.C.

1. Heard.

2. This petition takes exception to the order dated 28th November 2022 passed by the respondent no. 1 – The Divisional Joint Registrar Co-operative Societies. By the said order the Revision Application filed by respondent no. 4 was partly allowed and the order impugned in the revision passed by the Deputy Registrar Co-operative Societies,

MHADA – respondent no. 2 under Section 75(5) of the Maharashtra State Co-operative Societies Act 1960 (“MCS Act”) is set aside. By the impugned order, the case is remanded back to the Deputy Registrar Co-operative Societies for fresh consideration in view of the observations recorded in the order.

3. The impugned order refers to the applications filed by the petitioners under section 340 of the Criminal Procedure Code for seeking inquiry and initiating perjury proceedings against respondent no. 4.

4. By the impugned order the Divisional Joint Registrar, Co-operative Societies has expressed an opinion that the applications filed by the petitioners cannot be entertained by him for want of jurisdiction. The Divisional Joint Registrar Co-operative Societies was of the opinion that on consideration of the allegations made by the petitioners, it would be appropriate to remand the matter to the Deputy Registrar for fresh consideration and decide the case as contemplated under Section 75(5) of the MCS Act.

5. Learned counsel for the petitioners submitted that the applications under Section 340 of the Criminal Procedure Code referred to by the Divisional Joint Registrar Co-operative Societies in the impugned order were the applications filed by the petitioners for the first time before the revisional authority. He therefore submitted that filing these applications could not have been a ground to remand the matter. Learned counsel therefore submitted that the Divisional Joint Registrar Co-operative Societies should have decided the revision application on merits.

6. Learned counsel appearing for respondent nos. 3 and 4 supported the impugned order on the ground that the Divisional Joint Registrar is right in submitting that the application filed by the petitioners seeking to initiate perjury proceedings could not have been decided for the first time by the Divisional Joint Registrar.

7. Learned counsel for the society submitted that by making complaints the petitioners are seeking to inquire into the transactions from the year 2015. He submitted that after taking into consideration the provisions of Section 75(5) of the MCS Act as well as the decision

of this court with regard to the inquiry contemplated the revisional authority has rightly set aside the order which was impugned in the revision application filed by respondent no. 4 and directed a fresh inquiry.

8. I have perused the impugned order. It is not disputed that the application under Section 340 was for the first time filed before the revisional authority. Revisional authority has observed that the Deputy Registrar without verifying the records and without considering the key submissions has passed the order under Section 75(5) of the MCS Act. Thus, by giving valid reasons and referring to the relevant provisions has concluded that the order impugned before the revisional authority is required to be set aside and has remanded the matter back to the Deputy Registrar for fresh consideration.

9. Though the learned counsel for the petitioners submitted that the application filed by the petitioners under Section 340 was not a subject matter before the Revisional Authority, he does not dispute that the same was for the first time filed before the revisional authority.

10. On going through the reasons recorded by the revisional authority and considering the aforesaid submissions, I do not find that there is any illegality or infirmity in the impugned order.

11. There is no merit in the petition. The petition is dismissed.

[GAURI GODSE, J.]