

VRJ

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

WRIT PETITION NO.2799 OF 2024

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Ghanshyam Vasant Bhujbal & Ors.	... Petitioners
V/s.	
Bhagwan Singh & Ors.	... Respondents

Mr. Ashutosh Kulkarni i/by Mr. Siddharth Shitole for
the petitioners.

Mr. Anand S. Patil for respondent Nos.1 to 12.

Mr. Y. D. Patil, AGP for the State/respondent No.14.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2024

P.C.:

1. The writ petition arises out of a proceeding under section 18 of the Maharashtra Cooperative Societies Act, 1960 whereby proposal for division of a cooperative housing society has been rejected by respondent No.14 on the ground of non-compliance of procedure under section 18 of the Maharashtra Cooperative Societies Act, 1960.

2. The petitioners filed a proposal for division of a cooperative housing society. Section 18 of the Maharashtra Cooperative Societies Act, 1960 deals with the parameters for considering such proposal. It appears that the Joint Registrar, Cooperative Societies (CIDCO), by order dated 25th July 2022, permitted division of

cooperative housing society. Respondent Nos.1 to 12 aggrieved by the said order filed appeal under section 152 of the Maharashtra Cooperative Societies Act, 1960. Respondent No.14, by the impugned order, allowed the appeal and rejected the petitioners' proposal. Hence, the petitioners filed present writ petition.

3. On perusal of the impugned order, it appears that respondent No.14 allowed the appeal and rejected the petitioners' proposal for division of cooperative housing society on following grounds;

- (i) The objections of the existing members were not considered in the impugned order.
- (ii) The objections of CIDCO who owns the plot were not invited.
- (iii) The report of expert as contemplated under Government Resolution dated 30th July 2004 was not complied with.
- (iv) While granting registration in favour of new society, registration of earlier cooperative housing society was not cancelled.

4. On perusal of the aforesaid reasons, in my opinion, even if the reasons assigned are assumed to be correct, the logical consequence would be remand of matter to the first authority. Based on non-compliance of provisions of law, the proposal in absence of consideration of merits could not have been rejected. Therefore, it was necessary for respondent No.14 to remand the proceedings back to the Joint Registrar for decision of merits.

5. Hence, following order:

- a) Impugned order dated 24 January 2024 passed by

respondent No.14 in Appeal No.411 of 2022 is quashed and set aside.

b) Proceedings are remanded back to respondent No.13 at Belapur for decision afresh in the context of observations made by the Minister.

c) Respondent No.13 shall decide the petitioners' proposal on merits in accordance with law.

6. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)