

Shabnoor

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

WRIT PETITION NO.4274 OF 2024

Digitally
signed by
SHABNOOR
AMIT
PATHAN
Date:
2024.03.22
17:06:33
+0530

Seema Randipsingh Thakur

... Petitioner

V/s.

The State of Maharashtra Through
Government Pleader & Ors

... Respondents

Mr. Prashant Pandey a/w Mr. Dinesh Jadhvani i/by
Mr.Brahmanand Dube, for Petitioner.

Mr. P. G. Sawant, AGP for State/Respondent Nos.1, 3,
4, 6 & 7.

CORAM : AMIT BORKAR, J.

DATED : MARCH 22, 2024

P.C.:

1. Challenge in this writ petition is to the order dated 28 February 2023. The order has been passed by the Assistant Registrar in exercise of power under Section 158(29) of the Maharashtra Cooperative Societies Act, 1960. This order is reviseable before the Divisional Joint Registrar under Section 154 of the Maharashtra Cooperative Societies Act, 1960. The petitioner has already invoked the remedy of filing the revision. The revision is pending before the Revisional Authority. If, the Revisional Authority is not entertaining the revision or not passing

an order, the remedy of the petitioner is to move to the Division Bench for seeking appropriate relief to decide the revision application / interim application on merit expeditiously. However, filing of writ petition to challenge the same order which is subject matter of the revision, is nothing to abuse of process of law. The next challenge is to the notice dated 12 March 2024. The notice called upon petitioner to pay the amount as per the certificate issued under Section 158(29) of the Maharashtra Cooperative Societies Act, 1960. In absence of interim relief, the Authority is conferred with the power of execution under Section 156 of the Maharashtra Cooperative Societies Act, 1960 and is under obligation to issue such notice. Therefore, no fault can be found with such notice.

2. Moreover, Chapter XIII-B has been introduced by way of amendment to grant special status to the Housing Societies. Sub-section (2) of Section 158(29) of the Maharashtra Cooperative Societies Act, 1960 confers an obligation on the Registrar to proceed to recover the dues of the society even in absence of the concerned society initiating proceedings for recovery of dues; therefore, also the impugned action cannot be interfered with.

3. Learned Advocate for the petitioner submits that he wants to rely on judgment of the Division Bench, in the facts of the case, in absence of any restraining order passed by any Court, it is not necessary to consider the order of the Division Bench as the order does not restrain the society from recovering the dues.

4. Hence, there is no merit in the present writ petition. The writ petition is dismissed. No costs.

(AMIT BORKAR, J.)