

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6009 OF 2024

Sun Magnetic Co-Operative Society Ltd .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

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- Mr. Suresh Sabrad for Petitioner
 - Ms. V.R. Raje, AGP for Respondent Nos. 1 to 3
 - Mr. A.R. Gole for Respondent No. 4
 - Ms. Neeta Karnik for Respondent No. 5

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 22, 2024

P. C.:

1. Not on board. Mentioned. Taken on board.
2. Perused the praecipe dated 22.04.2024.
3. Heard Mr. Sabrad, learned Advocate for Petitioner; Ms. Raje, learned AGP for Respondent Nos. 1 to 3; Mr. Gole, learned Advocate for Respondent No. 4 and Ms. Karnik, learned Advocate for Respondent No. 5.
4. Order impugned in the present Writ Petition is passed on 27.03.2024 by Respondent No. 2 – Divisional Joint Registrar, Co-operative Societies by virtue of which the registration of Petitioner Society granted on 20.08.2018 which is at Exh. P, page No. 80 of the Writ Petition stands revoked.

5. Mr. Sabrad would submit that the revocation order is incorrectly passed without considering the substantive issues, *inter alia*, pertaining to limitation having not been considered before effecting cancellation. He would submit that in view of cancellation of registration of the Petitioner Society and the hardship that would be faced, Petitioner Society was constrained to file the present Writ Petition for immediate reliefs.

6. Mr. Gole, learned Advocate appears for Respondent No. 4 Society who is the landowner and claims to be a Society with the name - Accolade Co-operative Housing Society Ltd. According to him, members of Petitioner Society ought to have joined the Respondent No. 4 Society as its members and the registration has been effected by suppressing facts. Ms. Karnik, learned Advocate appears for Respondent No. 5 Developer. Ms. Raje, appears for Respondent Nos. 1 to 3 – State to defend the order dated 27.03.2024.

7. I have heard the learned Advocates appearing for the parties. It is contended by Ms. Karnik that there is a statutory Appeal maintainable against the impugned order under the provisions of Section 152 of the Maharashtra Co-operative Societies Act, 1960 (“**said Act**”) which remedy has not been invoked by the Petitioner. Mr. Sabrad would submit that in view of the dire urgency, present Writ Petition was filed without invoking the remedy of statutory Appeal.

He would submit that Petitioner would have no issue for filing the statutory Appeal immediately provided this Court grants some protection in the interregnum.

8. After hearing the submissions made by learned Advocates appearing for the parties and after deliberating on the issue before me, without delineating and expressing any opinion on merits of the case, considering that the Petitioner Society was functioning for almost six years, I am inclined to dispose of the present Writ Petition by passing the following order which is agreeable to the learned Advocates:-

- (i) Petitioner Society shall file its statutory Appeal under Section 152 of the said Act to challenge the order dated 27.03.2024 before Respondent No. 1 – State within a period of two weeks from today;
- (ii) Copy of the said Appeal shall be immediately served within a period of one week after filing the same on all Respondents by the learned Advocate for Petitioner;
- (iii) Respondent No. 1 – State who is the Appellate Authority under the provisions of Section 152 of the said Act is directed by this Court to appoint an appropriate officer i.e. either the concerned Secretary or an Officer on Special Duty to hear the challenge to the said Appeal on

behalf of the State considering the present scenario of elections;

- (iv) It is clarified that copy of the statutory Appeal which shall be filed by the Petitioner Society shall also be served on the learned Advocates for all Respondents in order to ensure that there is no ambiguity about service address as raised by the Respondents;
- (v) The Appeal shall be heard and decided by the Respondent No. 1 State after hearing all concerned parties within a period of six weeks from the date of filing of the Appeal;
- (vi) Petitioner Society shall continue the day to day operations of the Society building in the interregnum without being entitled to take any major policy decisions with respect to expenditure or otherwise pertaining to the property of the Society until the statutory Appeal is determined and decided by Respondent No. 1 State;
- (vii) All contentions of the parties including that of Respondent Nos. 4 and 5 are expressly kept open including that of Petitioner also;
- (viii) Respondent No. 1 State shall determine hearing of the Appeal in a time bound manner without granting any

unnecessary adjournments to any of the parties and the adjournments shall be granted only if they are utmost necessary in case of any emergency or exigency.

9. It is clarified that this Court has not opined anything on the merits of the impugned order dated 27.03.2024

10. With the above directions, Writ Petition stands disposed.

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signed by
RAVINDRA
MOHAN
AMBERKAR
Date:
2024.04.22
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[MILIND N. JADHAV, J.]