

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.15681 OF 2023

Kalyan Krushi Utpann Bazar Samiti, Kalyan .. Petitioner
Versus
Divisional Joint Registrar, Co-operative Societies,
Kokan Division & Ors. .. Respondents

Mr. Sanjeev Gorwadkar, Senior Advocate a/w Mr.Kirit Hakani a/w Mr.Rahul Hakani, Ms.Niyati Mankad and Mr.Advait Dalvi for the Petitioner.

Mr.R.P Kadam, AGP for respondent-State.
Mr.V. V. Bambarde a/w Mr.Anil Nile, Mr.Javed Shaikh and Ms.Roohita Shaikh for respondent no.4.

**CORAM : A.S. CHANDURKAR &
JITENDRA JAIN, JJ.**

DATE : 8th January 2024

PC:-

. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. Challenge raised in this writ petition is to the order passed by the Divisional Joint Registrar, Co-operative Societies, Konkan Division at New Mumbai on 30th November 2023 in exercise of jurisdiction under Section 152 of the Maharashtra Co-operative Societies Act, 1960.

3. Shri Sanjeev Gorwadkar, learned Senior Advocate for the petitioner submits that against the order passed by the Agriculture Produce Market Committee on 12th July 2023, respondent no.4 ought to have invoked the remedy under Section 52B of the Maharashtra Agriculture Produce Marketing (Development and Regulation) Act, 1963 (the Act of 1963). Though such appeal was filed, the jurisdiction has been exercised by the Divisional Joint Registrar, Co-operative Societies. In fact such jurisdiction vests only with Director of Marketing, Pune and therefore, as the order suffers from lack of jurisdiction, the same is liable to be set aside.

4. Shri V.V. Bambarde, learned counsel for respondent no.4, on instructions, submits that now the Director of Marketing, Pune is seized with the appeal preferred by respondent no.4 under Section 52B of Act of 1963. He has tendered a copy of the communication dated 27th December 2023 issued by the Director of Marketing, Pune taking cognizance of the said proceedings. Same is taken on record and marked 'A' for identification.

5. In view of the aforesaid, it is clear that the appeal preferred by respondent no.4 is now being entertained by the Director of Marketing, Pune. In that view of the matter, the following order is

passed : -

(i) The order dated 30th November 2023 passed by the Divisional Joint Registrar, Co-operative Societies is set aside on the ground that the said Authority was not vested with the jurisdiction under Section 52B of the Act of 1963.

(ii) The Director of Marketing shall consider the appeal preferred by respondent no.4 on its own merits and in accordance with law.

(iii) It is clarified that this Court has not examined the correctness of the reasons assigned by the Divisional Joint Registrar in the order dated 30th November 2023. All points are kept open for being raised before the Director of Marketing in appeal.

6. The writ petition is accordingly disposed of. Rule is made absolute in aforesaid terms with no order as to costs.

JITENDRA JAIN, J.

A.S. CHANDURKAR, J.