

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

WRIT PETITION NO. 2615 OF 2024

Arcadia Premises Co-Op Society Ltd And Anr. ...Petitioners
Versus
Sharan Khanna and Ors. ...Respondents

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Mr.Vijay Jha i/by Law Juris, Advocate for the Petitioners.

Mr.Shubhbrata Chakraborti i/by Mr.Mahernosh Humranwala for
Respondent Nos.1 to 3.

Ms.A.A. Nadkarni, A.G.P. for the Respondents Nos.4 & 5 – State.

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CORAM : AVINASH G. GHAROTE, J.
DATE : 10th JUNE 2024

P.C.:

1. The learned counsel for the petitioners agrees to supply the copy of Petition to Respondent Nos.4 & 5 by E-mail today itself. The learned counsel for respondent Nos.2 & 3 raises preliminary objection regarding the maintainability of the application on the ground that the order passed by the Deputy Registrar in exercise of powers under Section 79 of the Maharashtra Co-operative Societies (MCS) Act, 1960 are appealable under Section 152(1)(a) to the State Government.

By inviting my attention to the order in exercise of powers under Section 79 of the MCS Act dated 01.08.2023 (Page-13), it is contented that the same has been passed by the Divisional Joint Registrar in appeal, which can only be related to the powers under Section 152(1)(a) as a result of which an appeal would lie to the State Government and therefore the petition would not be maintainable.

2. On perusal of the provisions of Section 152 of the MCS Act, it indicates that the authority as indicated in Sections 152(1)(a) & (b), relates to the order being passed under the original provisions under Section 152(1) and not any order in appeal. In that view of the matter since the initial order under Section 79 of the MCS Act has been passed by the Deputy Registrar, the matter would clearly fall under Section 152(1)(b) of the MCS Act and the appeal before the Divisional Joint Registrar was clearly maintainable. The provision does not provide for any other appeal against such order considering which the contention is clearly misconceived. The objection raised by the learned counsel for the Respondent Nos.2 & 3 to the maintainability of the application is turned down.

3. List the Petition on 26th June, 2024. By that time the respondents shall place the submissions on record.

(AVINASH G. GHAROTE, J.)