



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4309 OF 2024

RAJKUMAR SHIVBHADUR SINGH ..PETITIONER
VS.
CHAIRMAN AND SECRETARY HIRAL
CO-OPERATIVE SOCIETY LTD. & ORS. ..RESPONDENTS

Mr. Laxman Kalel for petitioner.
Mr. V. S. Palande for respondent no.1.
Mrs. Reena Salunkhe, AGP for State.

CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ

DATE : 5th August 2024.

ORAL JUDGMENT : (PER : A. S. CHANDURKAR, J.)

1. Rule. Rule is made returnable forthwith. Heard learned counsel for the parties.

2. The petitioner seeks restoration of his Revision Application that was preferred under Section 154 of the Maharashtra Co-operative Societies Act, 1960 which came to be dismissed for want of prosecution. Since the petitioner sought further reliefs in the nature of restoration of his water supply which was disconnected by the first respondent- Co-operative Housing Society Ltd, the present Writ Petition was filed.

3. It is seen from the record that the recovery certificate dated

21st December 2018 came to be issued against the petitioner for failure to pay dues towards maintenance. The amount adjudicated by the recovery certificate is Rs.1,96,397/-. It is the case of the petitioner that the entire amount has been duly paid. The dispute is with regard to the area of the flat occupied by the petitioner. For that reason by obtaining certified copy of the order dated 7th July 2022 on 29th January 2024 the rejection of the Revision Application has been challenged.

4. We have heard learned counsel for the parties and we have perused the record.

5. It is seen that there was some hearing conducted during the period of the pandemic. The petitioner remained absent on five occasions despite notices being issued. For that reason, the proceedings were dismissed for want of prosecution. We find that since the petitioner has paid the entire amount of dues as adjudicated by the recovery certificate, an opportunity to contest the proceedings on merit deserves to be granted. It is to be noted that by an interim direction, the petitioner was directed to pay an amount of Rs.25,000/- to the society for restoration of water supply to his flat. This order has been complied with. In these facts, the interest of

justice requires that the Revision Application preferred by the petitioner be restored and the same be decided on merits. Accordingly, the following order is passed:-

(I) The order dated 7th July 2022 passed in Revision Application No.71 of 2019 is set aside.

(II) The Revision Application is restored for being adjudicated on merits.

6. Keeping all contentions open on merits, the Writ Petition is disposed of in the aforesaid terms with no order as to costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]