



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.6682/2024

1 and others V Assistant Registrar, Co-operative Societies, Chikhali and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. C.S. Kaptan, Senior Advocate a/b Ms Anjali A. Agrawal, Advocate for petitioners.
Mr. Deven Chauhan, Senior Advocate a/b Ms Kalyani Marpakwar, AGP for respondent
no.1.
Mr. Aashish Chaware, Advocate for respondent no.2.

CORAM : N.R. Borkar, J.

DATE : 14-11-2024.

This petition takes exception to the order dated 08-11-2024 passed by respondent No.1-Assistant Registrar, Co-operative Societies, Chikhali. By the order impugned respondent No.1 has allowed the application filed by respondent No.-2 under Section 101 of the Maharashtra Cooperative Societies Act, 1960.

ii. I have heard Mr. Kaptan, learned Senior Advocate for the petitioners, Mr. Deven Chauhan, learned Senior Advocate for respondent No.1 and Mr. Chaware, learned Advocate for the respondent no.2 Bank.

iii. The learned Senior Counsel for the petitioners submits that respondent No.1 has passed the order impugned in utter disregard of Rule 86E and F of the Maharashtra Cooperative Societies Rules (for short, 'the Rules'). It is submitted that according to Rule 86E it is mandatory to prove the contents of the application. It is submitted that respondent No.1 has however, allowed the application though the respondent No.-2 Bank had not proved its contents.

iv. On the other hand, learned Senior Counsel for respondent No.1 submits that against the order impugned the remedy of revision under Section 154 of the Act is available to the petitioners. It is submitted that, thus the present petition may not be entertained.

v. The learned Counsel for the respondent No.2-Bank has supported the order impugned.

vi. Rules 86E and F read thus :-

"86E. Procedure for Hearing of application.

(1) On receipt of the statement in defence of the opponent the applicant society shall prove contents of the application and also deal with the contention of defences. The

opponent likewise may file reply in support of the defence on the next date, if he desires. No cross examination of any of the parties shall be permitted.

(2) On receipt of the replies, the Registrar shall proceed to hear oral arguments of the parties and shall close the proceeding for the order.

(3) Every endeavor shall be made by the Registrar to decide the application within three months from the first date of hearing. However, the Registrar may decide the application beyond the period of three months for the reasons to be recorded in writing."

"86-F. Judgments, Order and Certificate:-

After hearing the arguments of the parties, the Registrar shall issue a reasoned judgment and pass an order for the grant of the rejection of the application. The Registrar, thereafter, shall issue a Certificate in Form "V". The judgment and the certificate shall bear his seal, signature and date."

vii. Perusal of Rule 86E reveals that on receipt of statement of defence, it is mandatory for the applicant to prove the contents of the application. However, in the present matter, admittedly the respondent No.-2 Bank has not proved the contents of the application. In that view of the matter, the order impugned cannot be allowed to stand. Considering the facts and circumstances, I am not inclined to

accept the submission of alternate remedy. In the result, following order is passed :

- (a) The order impugned is set aside.
- (b) The matter is remanded back to the respondent No.1- Assistant Registrar, Co-operative Societies for deciding it afresh.
- (c) The parties shall appear before the respondent No.1- Assistant Registrar, Co-operative Societies on 19-11-2024.
- (d) Needless to mention that respondent No.1-Assistant Registrar, Co-operative Societies shall scrupulously follow the Rules 86E and F, while deciding the application afresh.

(N.R. Borkar, J.)