

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8135 OF 2024

1. Shri. Subhash Tatyaso Patil
2. Sou. Sunita Subhash Patil
3. Kum. Trupt Subhash Patil

....*Petitioners*

: *Versus* :

1. Shri. Suresh Jingonda Patil
2. Divisional Joint Registrar,
Co-operative Societies, Kolhapur
Division, Kolhapur
3. Deputy Registrar, Co-operative
Societies, Miraj, Sangli
4. Shantisagar Co-operative Credit
Society Ltd.

....*Respondents*

Mr. Balwant Salunkhe, *for the Petitioner.*

Mr. Chetan G. Patil, *for Respondent No.1.*

Mr. O.A. Chandurkar, *Additional Government Pleader with MR. B.B. Dahiphale, AGP for Respondent Nos.2 and 3-State.*

Mr. Bhooshan Mandlik, *for Respondent No.4.*

CORAM : SANDEEP V. MARNE, J.

Dated : 7 March 2025.

P.C. :

1) **Rule.** Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, petition is taken up for hearing and final disposal.

2) The petition challenges Order dated 19 April 2024 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur partly allowing Revision Application No. 361/2023

by setting aside the order dated 7 November 2023 passed by the Deputy Registrar and remanding the proceedings to the Deputy Registrar for fresh decision.

3) I have heard Mr. Salunkhe, the learned counsel appearing for the Petitioners, Mr. Patil, the learned counsel appearing for Respondent No.1, Mr. Mandlik, appearing for Respondent No.4 and Mr. Chandurkar, Additional Government Pleader alongwith Mr. Dahiphale, AGP appearing for Respondent Nos.2 and 3.

4) Perusal of the impugned order dated 19 April 2024 would indicate that the only reason recorded by the Divisional Joint Registrar for setting aside the order passed by the Deputy Registrar is non-grant of opportunity to Respondent No.1 to produce relevant documents of Appeal before the Deputy Registrar. In my view, the documents in Appeal preferred by Respondent No.1 before the Hon'ble Minister (Co-operation) challenging the order passed against him under Section 88 of the M.C.S. Act are wholly irrelevant for deciding proceedings for disqualification under Section 73CA of the M.C.S. Act. The Deputy Registrar cannot comment upon correctness or otherwise of the order passed under Section 88 and the said jurisdiction vests only with the Hon'ble Minister. Therefore, production of documents of the said Appeal before the Deputy Registrar is absolutely irrelevant. Therefore, there was no reason for making an order of remand by the Divisional Joint Registrar, who ought to have decided the Appeal preferred by Respondent No.1 himself by considering the contentions raised by the rival parties on merits.

5) The order passed by the Divisional Joint Registrar is thus unsustainable and liable to be set aside. The petition succeeds partly and I proceed to pass the following order :

(i) The order dated 19 April 2024 passed by the Divisional Joint Registrar is set aside.

(ii) Revision Application No.361/2023 is restored on the file of the Divisional Joint Registrar who shall proceed to decide the same on its own merits without being influenced by any of the observations made by this Court in the present order. All contentions of the parties on merits are expressly kept open.

(iii) The Divisional Joint Registrar shall proceed to decide the remanded proceedings in an expeditious manner, preferably by 30 April 2025.

(iv) Till decision of the remanded proceedings by the Divisional Joint Registrar, the order passed by the Deputy Registrar on 7 November 2023, shall remain stayed.

6) With the above directions, the petition is **allowed and disposed of**.

[SANDEEP V. MARNE, J.]