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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3433 OF 2025

Harish Arora & Ors.

... Petitioners

V/s.

The Deputy Registrar of Coop.

Societies & Ors.

... Respondents

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Mr. Mayur Khandeparkar with Mr. Rahul Singh, Ms. Pranali Raut and Ms. Varsha Sawant i/by Legal Catalyst for the petitioners.

Smt. U.R. Raje, AGP for respondent No.1-State.

Mr. G.S. Godbole, Senior Advocate with Mr. Rohit Gupta, Ms. Kinnar Shah, Mr. Brijesh Nitekar and Mr. Samarth Jain i/by Divya Shah Associates for respondent Nos.3 to 7.

CORAM : AMIT BORKAR, J.

DATED : MARCH 6, 2025

PC.:

1. At the very outset, Mr. Godbole, learned Senior Advocate appearing on behalf of respondent Nos.3 to 7, has raised a preliminary objection premised on the availability and alleged invocation of the statutory remedy of revision by the petitioners. It is contended that since the petitioners have already availed the remedy of revision against the order dated 11 February 2025, this Court ought not to entertain the present writ petition, in light of the well-settled principle that whenever an effective alternate

remedy is provided under the statute, the High Court would ordinarily refrain from exercising its extraordinary jurisdiction under Article 226 of the Constitution of India.

2. In the context of the present proceedings, this question of entertaining the writ petition despite the availability of the revisionary remedy has been examined thoroughly by a Full Bench of this Court in *Shireen Sami Gadiali & Anr. v. Spenta Coop. Housing Society Ltd.* (2011 (3) Mh.L.J. 486). The Full Bench held that the statutory remedy of revision under Section 154 is available as a matter of right to an aggrieved party. Nonetheless, the Full Bench recognized certain exceptions whereby the High Court may, in its sound discretion, entertain a writ petition notwithstanding an available alternate remedy. One of these well-recognized exceptions is where the Court finds that there already exists a conclusive finding or binding judicial precedent in favor of the petitioner. In such circumstances, the court may justifiably proceed to entertain the writ petition without requiring the petitioner to exhaust the alternate remedy.

3. Learned Advocate for the petitioners, on instructions, has made a categorical assertion that despite bringing to the attention of the District Deputy Registrar the judgment rendered by a coordinate Bench in Writ Petition No. 8732 of 2021, the District Deputy Registrar, in his order dated 11 February 2025, chose to sidestep or effectively disregard such binding precedent by placing undue reliance on the distinct factual background of that decision. Moreover, the District Deputy Registrar proceeded to hold that the directives of the State Government dated 4 July 2019 still govern

the field, without properly reconciling them with the ratio laid down in the coordinate Bench's judgment.

4. It is apparent that the petitioners herein rely upon the authoritative pronouncement of a coordinate Bench of this Court in Writ Petition No. 8732 of 2021. They assert that the District Deputy Registrar, in passing the impugned order dated 11 February 2025, has disregarded or sidestepped this binding precedent by making a distinction on what appears to be a factually incorrect premise. When the impugned order fails to accord due weight to a binding judgment of this Court, especially on an issue squarely covered by such judgment, this Court is not precluded from exercising its extraordinary jurisdiction, even if an alternate remedy is sought to be invoked. This approach ensures that settled law is applied uniformly and that subordinate authorities do not overlook or undermine binding precedent.

5. A statutory authority is bound by the law declared by the High Court, and any deviation from or disregard of such binding precedent, unless clearly distinguishable on facts or overruled by a higher court, could invite serious repercussions. The District Deputy Registrar's approach, as alleged, raises pertinent questions as to whether he has erroneously negated the ratio decidendi of the binding precedent, thereby necessitating judicial scrutiny of his actions to maintain the sanctity of precedential hierarchy.

6. The Hon'ble Supreme Court in the case of *Bharadakanta Mishra v. Bhimsen Dixit* reported in (1973) 1 SCC 446, observed as under:—

“15. The conduct of the appellant in not following the previous, decision of the High Court is calculated to create confusion in the administration of law. It will undermine respect for law laid down by the High Court and impair the constitutional authority of the High Court. His conduct is therefore comprehended by the principles underlying the law of contempt. The analogy of the inferior Court's disobedience to the specific order of a superior court also suggests that his conduct falls within the purview of the law of contempt. Just as the disobedience to a specific order of the Court undermines the authority and dignity of the Court in a particular case, similarly the deliberate and malafide conduct of not following the law laid down in the previous decision undermines the constitutional authority and respect of the High Court. Indeed, while the former conduct has repercussions on an individual case and on a limited number of persons, the latter conduct has a much wider and more disastrous impact. It is calculated not only to undermine the constitutional authority and respect of the High Court, generally, but is also likely to subvert the Rule of Law ‘and engender harassing uncertainty and confusion in the administration of law.

7. Article 215 of the Constitution of India underscores the power of the High Court to ensure compliance with its orders and judgments. Any deliberate or willful non-compliance by a subordinate authority could invite action in contempt or other suitable proceedings. It is, therefore, in the larger interest of justice and in vindication of judicial authority that the District Deputy Registrar be called upon to explain his actions on oath, thereby preserving the integrity of judicial precedents and compliance by subordinate authorities.

8. Consequently, this Court directs Mr. Adinath Dagade, District Deputy Registrar, Cooperative Societies, H/West Division, Mumbai, to file his personal affidavit explaining the rationale behind his decision to sidestep or deviate from the binding precedent of this Court without a justifiable reason. Such affidavit shall specifically address the reasons for not following the judgment in Writ Petition No. 8732 of 2021, given that the said judgment was placed before him. He shall file his personal affidavit within two weeks from the date of this order.

9. **Stand over to 20 March 2025.**

10. Pending the returnable date of 20 March 2025, the operation and effect of the order dated 11 February 2025 shall remain stayed.

11. Further, the order appointing an Administrator shall not be given effect to, and the Administrator shall not take charge of the Society until 20 March 2025.

(AMIT BORKAR, J.)