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

WRIT PETITION NO.3784 OF 2025

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Jai Radha Swami Cooperative
Housing Society Limited

... Petitioner

V/s.

Divisional Joint Registrar of
Cooperative Societies & Ors.

... Respondents

Mr. Prashant P. Kulkarni with Ms. Rachna Mamnani and
Ms. Ritika for the petitioner.

Mr. O.A. Chandurkar, Additional G.P. with Smt. G.R.
Raghuwanshi, AGP for State.

Mr. Shailendra Pagare i/by Mr. Nitesh Mohite for
respondent No.3.

CORAM : AMIT BORKAR, J.

DATED : APRIL 15, 2025

P.C.:

1. Rule. Rule is made returnable forthwith.

2. The present writ petition under Article 226 of the Constitution of India assails the legality and propriety of the order dated 20 October 2022 passed by respondent No.1 – the Appellate Authority constituted under the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as "the Act"), in purported exercise of powers under Section 152 of the Act. The impugned order allows Appeal No.31 of 2022 filed by respondent No.3, thereby interfering with the directions issued by respondent No.2 – the competent authority under Section 79A of the Act.

3. At the outset, it is necessary to examine the scheme of the Act with reference to the appellate remedies available under Section 152. A bare perusal of Section 152 of the Act reveals that it provides for an appeal only against orders passed by the Registrar, a person subordinate to him, or a Cooperative Court, in the manner and to the extent prescribed. However, when read conjointly with Section 152A, which was inserted by Maharashtra Act No.41 of 2000, it is evident that orders passed by the State Government or by any authority exercising delegated powers under Section 79A are specifically excluded from the purview of appeal. The legislative intent behind excluding Section 79A orders from appellate scrutiny is to preserve the finality and efficacy of policy directions issued by the State Government in the interest of better administration of cooperative societies.

4. In the present case, the order dated 20 July 2022 passed by respondent No.2 is clearly traceable to the powers conferred under Section 79A of the Act, which authorises the State Government or its delegate to issue directions in public interest or to secure proper implementation of the provisions of the Act and the rules framed thereunder. Such orders, by the very scheme of the statute, are not amenable to challenge by way of appeal under Section 152. Nevertheless, the Appellate Authority has proceeded to entertain and decide Appeal No.31 of 2022 preferred by respondent No.3 without examining the maintainability of such appeal. The jurisdictional bar under Section 152A was overlooked, resulting in exercise of jurisdiction which the Appellate Authority did not possess.

5. It is a well-settled principle of law that when a statute expressly bars an appeal or remedy, any order passed in disregard of such bar is a nullity. In view of these settled principles, the action of respondent No.1 in entertaining the appeal and deciding it on merits is clearly unsustainable.

6. In light of the above analysis, this Court is of the considered opinion that the impugned order dated 20 October 2022 passed by respondent No.1 in Appeal No.31 of 2022 is without jurisdiction and deserves to be set aside. Accordingly, the writ petition is allowed. The impugned order is quashed and set aside. Rule is made absolute in terms of prayer clause (a). There shall be no order as to costs.

7. However, this judgment shall not preclude respondent No.3 from availing appropriate remedy, if any, available in law for ventilating his grievance against the directions issued under Section 79A. It shall be open to respondent No.3 to approach the appropriate authority or competent court in accordance with law. All contentions on merits are expressly kept open.

(AMIT BORKAR, J.)