

Shabnoor

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

WRIT PETITION NO.11473 OF 2025

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Ashoka Wines Prop.

Anita Bansal Totlani Through

Power of Attorney

Heero Shyamlal Madhyani

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Yuvraj Narvankar, i/b MR. Monish Bhatia, for the
Petitioner.

Mr. Sidheshwar Biradar, for Respondent Nos.3 & 5.

Mrs. V. S. Nimbalkar, AGP for the State – Respondent
Nos.1 & 2.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 2, 2025

P.C.:

1. The petition questions the dismissal of the statutory appeal filed under Section 152 of the Maharashtra Cooperative Societies Act. The dispute arises from an order made by the Liquidator in the course of liquidation proceedings. The Liquidator acted under Section 105(h). He treated the dispute as one capable of being resolved by an award. The Appellate Authority relied on the proviso to Section 152 while refusing to consider the appeal on merits. The record shows that the Appellate Authority treated the non deposit of fifty percent of the amount stated in the award as a ground to terminate the appeal itself. This approach raises a

serious jurisdictional error.

2. The Liquidator has stated that he acted on the authority of the Registrar. The endorsement made by the Registrar is on record. The Liquidator has relied on this endorsement to justify his power to pass an award.

3. The petitioner disputes this position. The petitioner submits that the Liquidator cannot decide disputed monetary claims. The power of the Liquidator under Section 105 is limited. It must trace its source to the statute. A Liquidator cannot enlarge these powers by reference to general administrative instructions. The function of determining liability is quasi judicial. It needs a clear conferment of power. In its absence, any order fastening monetary liability will fall outside the jurisdiction of the Liquidator. The grievance raised by the petitioner therefore goes to the root of the matter.

4. The Appellate Authority appears to have referred to the proviso to Section 154(2A). The record suggests that the Authority intended to rely on the proviso to Section 152(1). The order of the Appellate Authority, when read carefully, shows that it has relied on the proviso to Section 152. The proviso restricts the grant of interim relief. The proviso does not curtail the right of appeal. The statute creates a complete remedy of appeal and does not attach any condition that the appeal will not be heard unless deposit is made. The condition applies only when the appellant seeks stay of the award. The Legislature has chosen to retain the right of appeal without conditions. The Legislature has at the same time imposed a restriction on grant of interim stay. The Appellate Authority was

bound to decide the appeal on merits. It could not treat the absence of deposit as a ground to dismiss the appeal itself. This error has resulted in failure to exercise jurisdiction vested in the Appellate Authority.

5. The following directions will therefore secure justice in the matter.

(a) The parties will appear before the Appellate Authority on 15 December 2025 at 10.30 a.m.

(b) The Appellate Authority will decide the appeal within two weeks from the date on which the parties appear.

6. The writ petition stands disposed of in above terms.

7. No order as to costs.

(AMIT BORKAR, J.)