



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No.2870 OF 2025

(Anna & Nagri Purwatha Karmachari Sahakari Gruha Nirmal Sanstha Maryadit, Nagpur,
thorugh its President Shri Sunil Daulatram Batra Vs. M/s. Ramdev Real Estate Pvt. Ltd.,
through it's authorized Signatory Shri Nandkumar Khattumal Harchandani)

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

Court's or Judge's orders.

Ms. Disha C. Kamwani, Advocate for petitioner.
Mr. Aniket S. Dabadgao, Advocate for respondent.

CORAM : R.M. JOSHI, J.
DATE : 14th JULY, 2025.

1. By consent of both sides the petition is heard finally at the stage of admission.
2. The petitioner is a cooperative Society, whose status have been revived after the order of liquidation of the Society came to be set aside by the competent authority, has preferred this petition taking exception to the order dated 22nd April, 2024 passed in M.J.C. No.378/2019, whereby Special Civil Suit No.513/2005 came to be restored to the file of 3rd Joint Civil Judge, Senior Division, Nagpur for decision afresh.
3. It is the case of the petitioner-Society that during the pendency of the M.J.C. No.378/2019, an application was moved on behalf of the respondent bringing to the notice of the trial Court about there being an order of liquidation passed against the Society as back as in the year 2014 and Liquidator came to be appointed. As a result of said information given to the learned trial Court, the petitioner Society was barred from

contesting the application. It is sought to be contended on behalf of the petitioner that there was no proper service of notice effected on the Liquidator and this has resulted into said proceeding No. M.J.C. No.378/2019 not being contested and decided in favour of respondent. On these amongst other submissions impugned order is sought to be set aside.

4. Learned counsel for the petitioner-Society has drawn attention of the Court to the bailiff report dated 20.2.2024 indicating that the notice has not been served upon the Liquidator as the Liquidator who was appointed has been transferred. It is her submission that thereafter by hamdast notice was sought to be served on the office of the Liquidator. It is further argued that admittedly after the service of notice none has caused appearance on behalf of the respondent-Society and this has resulted into passing of the order against the Society. According to her, the record of the trial Court indicates that the Society was contesting the said application and the witness examined by the respondent/ original applicant was also cross-examined. The attention of the Court is drawn to the application filed by the Society for issuance of witness summons Exh.-35 dated 26.9.2023. It is her submission that in view of the fact brought to the notice of the trial Court appointment of Liquidator and as the Liquidator was joined as a party respondent to the said proceeding, the Society was prevented from further litigating the said application. Thus, it is her contention that here in this case since the opportunity of hearing was not given this as fit case for setting aside the impugned order.

5. Learned counsel for the respondent supported the impugned order essentially drawing attention of the Court to the fact that though the order of liquidation of the Society was passed in the year 2014, the same was not within the knowledge of the respondent-applicant. It is his submission that service of notice was not required to be effected on the Liquidator in person but the service of notice on the office was sufficient. Thus, it is his contention that this is not a fit case for causing interference in the impugned order. He further submits that the information about Mr. N.D. Choudhary being Liquidator was provided by the office of the Liquidator to the respondent.

6. Perusal of the record indicates that the Society was contesting the said application and the witness examined by the original applicant was also cross-examined. Further steps were taken by the Society for issuance of witness summons by making application Exh.-35. This fact, more than sufficiently demonstrate that the Society was keen upon contesting the said application and it is only on account of knowledge of the Court below about the appointment of the Liquidator and as Liquidator came to be joined as defendant to represent the Society, it was prevented from causing further appearance in the said proceeding and to contest the same.

7. Now, admittedly, order of liquidation is set aside on 29.11.2024. Thus question arises as to whether the Society was duly represented before the trial Court in the said application and as to whether the Liquidator was served properly. Perusal of the bailiff report indicates that the bailiff

did not serve the notice on the office of the Liquidator on the ground that the Liquidator i.e. Mr. N.D.Choudhry was transferred. This bailiff report was well within the knowledge of the respondent/original applicant. The notice thereafter however was served upon the office by giving the copy thereof at inward. Apart from discrepancies in the said acknowledgment, in the facts of the case, when there was a specific report of the bailiff that the service could not be effected on the Liquidator on account of his transfer, it was incumbent on the part of the trial Court to ensure that the service has been properly effected on the Liquidator appointed subsequently. Non-ascertainment of the said fact has resulted into the said proceeding being decided in absence of Liquidator and Society.

8. In the circumstances, this is a fit case wherein the impugned order deserves to be set aside and the proceedings are required to be relegated back to the trial Court for decision from the stage of evidence of the Society.

9. The impugned order dated 22nd April, 2024, passed by the 3rd Joint Civil Judge, Senior Division, Nagpur is set aside.

10. Proceeding bearing M.J.C. No.378/2019 stands relegated back to the trial Court for its decision from the stage of evidence of Society (since the status of the Society is now revived.)

11. The parties are directed to appear before the trial Court on 29th July, 2025.

12. No separate notice would be required to be issued by the trial Court to the parties.

13. Petition stands allowed in above terms.

(R.M. JOSHI, J.)

Wadode