

(2002) 12 BOM CK 0040

In the Bombay High Court

Case No : Writ Petition No. 4164 of 2002

Jaikumar Ruprao Dhumale, Madanrao Himmatrao Bayaskar,
Ramdas Akaramji Kaware, Sudhakar Narayanrao Bharsakle,
Sau. Mandakini Dipak Parode, Sau. Sulbhatai Sureshrao Kale

APPELLANT

Vs

The Assistant Registrar, Cooperative Societies, Daryapur
Taluka Supervision Cooperative Society Limited and Others

RESPONDENT

Date of Decision : 17-12-2002

Acts Referred:

Citation : (2002) 12 BOM CK 0040

Hon'ble Judges : R. S. Mohite, J

Bench : Single Bench

Advocate : S.V. Manohar and A.A. Naik, for the Appellant; A.M. Ghare, for respondent Nos. 4(a) and 4(b) and A.S. Fulzele, AGP for respondent Nos. 1 and 5, for the Respondent

Final Decision : Allowed

Judgement

R. S. Mohite, J.—Heard Shri Manohar, Advocate for the petitioners, Shri Ghare, Advocate for respondents No. 4(a) and 4(b) and Shri Fulzele, AGP for respondents No. 1 & 5.

2. Rule By consent, rule is made returnable forthwith.

3. By an order dated 23.9.2002, Respondent No.3 appointed the present respondents No. 4(a), 4(b), 4(c) and 4(d) as Committee of Administrators upon Respondent No.2 - Society. The same was challenged by an appeal, which was filed by the petitioners on 21.10.2002 before the Divisional Joint Registrar, Cooperative Societies, Amravati. After hearing both sides, by an order dated 30.10.2002, the Divisional Joint Registrar, Cooperative Societies, Amravati, granted an interim stay to the appointment of the Administrators. Grant of interim stay was challenged by the Administrators by filing a revision before the State of Maharashtra and the Minister of State vide his order dated 2.11.2002 granted an ex parte stay to the interim stay, granted by Divisional Joint Registrar,

Amravati, which interim stay had in fact been granted after hearing both sides. The present writ petition has been filed by the present petitioners who are superseded members of the Managing Committee of Respondent No.2 - Society, impugning the order dated 2.11.2002.

4. I find that the impugned ex parte order has been passed not only without hearing the parties but does not contain the reasons as to why the State Minister thought it necessary to stay an interim order which had been passed after giving reasons and after hearing the concerned parties. The State Minister ought to have realised that after passing of such an ex parte order the very appeal before the Divisional Joint Registrar, Amravati, could become infructuous. It is in such circumstances that the present writ petition came to be filed and by an order dated 22.11.2002, this Court was pleased to grant an interim stay of the effect and operation of the impugned order dated 2.11.2002 passed by the State Minister for Cooperation.

5. In the aforesaid circumstances, I find that it is necessary to set aside the ad interim ex parte order passed by the State Minister for Cooperation. In the circumstances, I feel that the ends of justice will be met if the Divisional Joint Registrar, Cooperative Societies, Amravati, decides the appeal No.16 of 2002 within a period of three weeks from today.

6. Accordingly, the Divisional Joint Registrar, Cooperative Societies, Amravati, is directed to decide the aforesaid Appeal No. 16 of 2002 within a period of three weeks. The parties agree to appear before him on 23.12.2002, on which date, the appellate authority will give them a fixed date of hearing and finally decide the appeal within aforesaid stipulated period.

7. In the result, writ petition is allowed. Rule is thus made absolute in terms of prayer clause (a) subject to the aforesaid directions pertaining to the time frame within which the appeal is to be decided.

8. A copy of this order be communicated by the learned AGP to the Divisional Joint Registrar, Cooperative Societies, Amravati, forthwith.

9. A copy of this order be supplied to the parties on payment of necessary charges.