

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12550 OF 2024

Balu Ramu Bhadarge and ors. ... Petitioners

V/s.

The Divisional Deputy Registrar and ors. ... Respondents

Mr. Y. B. Lengare, Advocate for the Petitioners.

Mr. Shahaji Shinde, "B" Panel with Ms. Aloka A. Nadkarni, AGP for the Respondents No.1 and 2 /State.

Mr. Chetan Gajanan Patil, Advocate for the Respondent No.3.

CORAM : SANDEEP V. MARNE, J.

Dated : 31 January, 2025.

P.C. :

1. Heard the learned counsel appearing for the parties.

2. It appears that the Petitioners applied for grant of membership of the society and the society had failed to take any decision on the applications preferred by the Petitioners. The statutory scheme of Sections 22 and 23 of the Maharashtra Co-operative Societies Act, 1960 ("the Act") is such that where society rejects an application for membership, a person aggrieved by such rejection can file appeal to the Registrar under provisions of Section 23(2) of the Act. However, where the society fails to take any decision on the application of membership, and a dispute arises as to whether the person applying for membership has become a deemed member or not, the decision in that regard is required to be taken by Registrar under provisions of Section 23(1A) of the Act.

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3. Admittedly, in the present case, the membership applications were not rejected by the society and therefore, there was no occasion for the Registrar to exercise jurisdiction under Section 23(2) of the Act. What Registrar ought to have exercised is a power under Section 23(1A) of the Act. To this extent, no serious fault can be found in the order passed by the Divisional Joint Registrar in setting aside the orders of the Assistant Registrar passed under the provisions of Section 23(2) of the Act. However, the only error committed by the Divisional Joint Registrar is not to direct the Assistant Registrar who exercise jurisdiction under section 23(1A) of the Act after setting aside the order dated 7th July, 2022.

4. Accordingly, as a result of setting aside order dated 7th July, 2023. passed by the Assistant Registrar, the proceedings shall stand remanded before the Assistant registrar for taking a decision under provisions of Section 23(1A) of the Act. The Assistant Registrar shall decide the proceedings under Section 23(1A) of the Act in an expeditious manner. To this extent the orders passed by the Divisional Joint Registrar on 10th May, 2023 shall stand modified. Parties shall appear before the Assistant Registrar and prosecute and defend the application under provisions of 23(1A) of the Act.

5. With the above directions, the Writ Petition is partly allowed and disposed of. All contentions of the parties on merits are kept open.

(SANDEEP V. MARNE, J.)