

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s) 1316 OF 2019
(Arising out of SLP(Civil) No(s). 33030 of 2013)

DELHI DAYALBAGH HOUSE
BUILDING SOCIETYAppellant(s)

VERSUS

REGISTRAR
COOPERATIVE SOCIETIES AND ORS.Respondent(s)

AND

CIVIL APPEAL NO(s) 1317 OF 2019
(Arising out of SLP(Civil) No(s). 4518 of 2013)

J U D G M E N T

Rastogi, J.

Civil Appeal arising out of SLP(C) No. 33030/2013

Leave granted.

2. Civil Appeal arising out of SLP(C) No. 33030/2013 has been filed assailing the order dated 2nd July, 2013 passed by the Registrar, Cooperative Societies under Section 94 of the Delhi Cooperative Societies Act, 2003. Indisputedly, the Order passed by the Registrar under challenge before us dated 2nd July, 2013 is

appealable under Section 112 of Act 2003. The appellant approached directly to this Court primarily on the premise as alleged that the judgment which was passed by the Delhi High Court i.e. the impugned judgment before us in Civil Appeal arising out of SLP(C) No. 8138/2013, made certain observations in reference to the winding up proceedings initiated at the instance of the complaint made by one of the member of the society and in the given circumstances, filing of a statutory appeal under Section 112 of the Act may not serve any purpose.

3. Taking note of the submission of the learned senior counsel for the appellant at that stage, the appeal against the order dated 2nd July, 2013 was entertained by this Court. But after we have heard the parties, the judgment of the High Court dated 5th December, 2012 impugned before us in Civil Appeal arising out of SLP(C) no. 8138/2013, we find that no such observations were made which in any manner would have prejudiced the rights of the parties or have influenced/inhabited the Registrar in passing the order impugned dated 2nd July, 2013. That apart, the order of the Registrar Cooperative Societies refers to an independent inquiry being held by a Committee of two officers of the

cooperative societies and after hearing the parties order impugned came to be passed dated 2nd July, 2013.

4. Since the appellant has an alternative remedy of statutory appeal against the order impugned dated 2nd July, 2013 under the Act 2003 taking note of the view expressed by this Court in **Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and Others** 1998(8) SCC 1, we are not inclined to entertain the appeal with liberty to the appellant to avail the statutory remedy of appeal available to him under the law. Since the instant appeal remain pending in this Court for quite some time, it is considered appropriate that if the appeal before the appellate authority is preferred against the order impugned dated 2nd July, 2013 within a period of 60 days from today, it may be treated to be within a period of limitation and the authority may examine and decide it on merits after affording opportunity of hearing to the parties without being influenced/inhabited by any observations if made by us in the proceedings.

5. The appeal is disposed of accordingly.

6. Pending application(s), if any, including the application for impleadment stands disposed of.

Civil Appeals arising out of SLP(C) No. 4518 of 2013

Leave granted.

2. In the light of the order passed in Civil Appeal arising out of SLP(C) No. 33030 of 2013, this appeal has become infructuous and is accordingly dismissed as such.

3. Pending application(s), if any, stands disposed of.

.....J.
(A.M. KHANWILKAR)

.....J.
(AJAY RASTOGI)

New Delhi
January 30, 2019.