

IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 375 OF 2015

IN

WRIT PETITION NO. 715 OF 2013

REGISTRAR OF CO-OPERATIVE
SOCIETIES AND EX-OFFICIO JOINT
SECRETARY, GOVT. OF GOA.,

... Applicant

Versus

KADAMBA GOVT. EMPLOYEES CO-OP.
HOUSING SOCIETY LTD. REP. BY ITS
SECRETARY, SHRI. KRISHNA KERKAR.,

... Respondent

Mr. A. N. S. Nadkarni, Advocate General with Ms. Sapna Mordekar,
Additional Govt. Advocate for the applicant.
Mr. Arun Talaulikar, Respondent No.2/org. Petitioner No.2 in
person.

Coram:- F. M. REIS &
K. L. WADANE, JJ.

Date:- 29th July, 2015

P.C.:

Heard Mr. A.N.S. Nadkarni, learned Advocate General
along with Ms. Sapna Mordekar, learned Additional Govt. Advocate
for the applicant and Mr. A. Talaulikar, respondent No.2/Original
Petitioner No.2 in person.

2. This application filed by the applicant is for permission to
conduct the elections in view of the interim directions by this Court.

3. It is pointed out by the learned Advocate General that the election process has already been initiated and it is well settled that such process cannot be stalled by this Court and, as such, the election process has to be duly completed. It is further pointed out that in view of the interim directions issued by this Court, the applicant/Registrar has filed the above application to permit them to hold the elections.

4. On the other hand, respondent No.2/original Petitioner No.2 in person, has submitted that the petitioners have challenged the constitutional validity of the amendment to Section 66 of the Goa Co-operative Societies Act which, according to him, is unconstitutional. It is further pointed out that as the share capital of the concerned Society is less than Rs.25.00 lacs, and, as such, the question of the Registrar conducting the elections would not arise. It is further submitted that the Voters' List has also not been completed by the Registrar and according to him, though objections have been raised, such objections have not yet been decided. It is further pointed out that the petition itself would become infructuous in case the applicant/Registrar is permitted to conduct the elections.

5. Upon hearing the learned Advocate General along with the learned Additional Govt. Advocate and the respondent No.2/original petitioner No.2 in person, it reveals that the election process has already commenced. In such circumstances, the question of stalling

such election process, at this stage, is not proper nor justified. But, however, any election conducted by the applicant/Registrar, would be subject to the restrictions and orders which may be passed in the above writ petition.

6. With regard to the contention of the Respondent No.2 that the Voters' List has not yet been finalised, it has been pointed out by the learned Additional Govt. Advocate, upon instructions, that the decision with regard to the objections, has already been taken by the Registrar on 11th May, 2015.

7. Another grievance raised by the Respondent No.2 is that the elections cannot be conducted in the Chamber of the Registrar, but should be conducted only at a convenient place in the premises of the Society or there around. We find it appropriate that the elections of the General Body has to be conducted either at the premises of the Society or at a convenient place to be identified in writing by the Petitioners within seven days from today. In case of default in identifying such a place within such period, the applicant/Registrar is at liberty to conduct such elections at any other suitable place. This is precisely also because it is pointed out by the respondent No.2 in person that most of the Members of the Society are Senior Citizens and scattered at different places and, as such, would not be in a position to proceed to the Chamber of the applicant/Registrar.

8. With regard to the contention of the Respondent No.2 in person in connection with the Voters' List, the Respondents if so advised would have to take remedy in law to challenge such Voters' List, in accordance with law.

9. In view of the above, the application to permit the applicant/Registrar to conduct the elections is allowed in terms of the observations made hereinabove. The Registrar shall proceed to hold the elections after publishing a new schedule of the date for filing nominations, date for withdrawal, date of election, etc., in terms of the Rules governing such elections. Further the elections so conducted, shall be subject to any further orders which may be granted by this Court whilst disposing of the above writ petition.

The new Committee, if so appointed, shall not take charge unless permission of this Court is obtained. Needless to say, the Registrar shall maintain the Minutes and Records of such election process and filed them in this Court, immediately after the election process is completed.

The application stands disposed of accordingly.

K. L. WADANE, J.

F. M. REIS, J.

ssm.