

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 804 OF 2014

Shri Mohammed Hanif Hownur,
General Secretary Representing
Sunni Al Madina – Masjid Wa Madrasa
Society registered under the Societies
Registration Act, 1860 with its
office at Rumdamol Hsg. Board,
Davorlim, Navelim,
Salcete, Goa.

... Petitioner

V e r s u s

1. State of Goa,
Through its Chief Secretary,
with its office at Secetariat,
Goa Legislative Assembly Complex,
Porvorim Goa.

2. The District Registrar (South Goa)
Inspector general of Societies,
Panaji, Government of Goa,
with its office at Osia Commercial Complex,
2nd Floor, "D" wing,
Salcete, Margao, Goa.

3. Shri Abdul Wahab Gokak,
major of age,
H. No. P/52, Housing Board,
Rumdamol Davorlim.

... Respondents

Mr. Sudesh Usgaonkar and Ms. Anagh Matondkar, Advocates for the Petitioner.

Mr. A. N. S. Nadkarni, Advocate General with Ms. P. Bhandari, Addl. Government
Advocate for the Respondent nos. 1 and 2.

Mr. Nitin Sardessai, Senior Advocate with Mr. L. Raghunandan, Advocate for the
Respondent no. 3.

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

Date : **21st January, 2015**

ORAL JUDGMENT (Per F. M. Reis, J.)

Heard Shri Sudesh Usgaonkar, learned Counsel appearing for the Petitioner, Shri. A. N. S. Nadkarni, learned Advocate General appearing for the Respondent nos. 1 and 2 and Shri Nitin Sardessai, learned Senior Counsel appearing for the Respondent no. 3.

2. Rule. Heard forthwith with the consent of the learned Counsel. Learned Counsel appearing for the respective Respondents, waives service.

3. We have extensively heard Shri Sudesh Usgaonkar, learned Counsel appearing for the Petitioner, Shri. A. N. S. Nadkarni, learned Advocate General appearing for the Respondent nos. 1 and 2 and Shri Nitin Sardessai, learned Senior Counsel appearing for the Respondent no. 3. This Court by an Order dated 23.12.2014, has passed interim directions whilst staying the implementation of the impugned Order passed by the District Registrar, South Goa, Margao, at exhibit I, which is the subject matter of the above Petition.

4. Upon hearing the learned Counsel, we find that the main grievances between the parties is with regard to the voters list who would be entitled to vote at the General Body meeting to hold elections of the concerned Society. The contention of Shri Nitin Sardessai, learned Counsel appearing for the Respondent no.3, is that the voters list is not complete and, as such, a mechanism has to be worked out to ensure that the voters list is expeditiously completed in accordance with the Bye Laws of the concerned Society.

5. Shri Sudesh Usgaonkar, learned Counsel appearing for the Petitioner, has pointed out that the elections were intended to be held on 14.12.2014 and, as such, the list to vote has to be finalized as on 14.12.2014. Shri Nitin Sardesai, learned Senior Counsel appearing for the Respondent no. 3, in fact, upon instructions, accepts that the list of voters be finalised as on the said date.

6. It is not in dispute that the term of the present Committee is already over and, as such, there is no reason to further delay the holding of the elections to elect the new Committee of the concerned Society. No doubt, to have an effective elections, the voters list would have to be finalised as on the said date i.e. 14.12.2014 in terms of the Bye Laws governing such Society. Apart from that, the learned Registrar was not justified to appoint an Adhoc Committee in terms of the impugned Order which has been stayed by this Court by Order dated 23.12.2014. Considering all these aspects, we find it appropriate to dispose of the above Writ Petition by issuing the following directions :

- (i) The impugned Order at Exhibit I passed by the Respondent no. 2 is quashed and set aside and is substituted by the directions issued herein below.
- (ii) The directions issued by this Court on 23.12.2014 in the above Writ Petition shall continue to operate until fresh elections are held of the Committee of the concerned Society in terms of this Order and till the new Managing Committee takes charge of the affairs of the

concerned Society.

- (iii) The ~~Respondent no. 2~~ Petitioner is directed to prepare ~~finalise~~ the voters list of the concerned Society in accordance with Exhibit B to the above Petition which Bye laws are accepted by the Respondent no. 3.
- (iv) The ~~Respondent no. 2~~ Petitioner shall paste at the Masjid in Davorlim the names of the existing voters list as prepared by the Petitioners herein and a copy thereof shall be submitted to the Respondent no. 2 within four weeks from today.
- (v) Liberty to the Respondent no. 3 or any other person/persons entitled to be in such voters list to raise such objections on such ~~count~~ ~~court~~ before the Respondent no. 2 within two weeks thereafter.
- (vi) The Respondent no. 2 shall decide such claims and proceed to finalise the voters list in terms of the said Bye laws at exhibit B after hearing all the parties in accordance with law within six weeks thereafter.
- (vii) The Petitioner shall thereafter proceed to hold the elections at a convenient date after the said list is finalized by the Respondent no. 2 within two weeks thereafter.
- (viii) The elections shall be conducted by secret ballot under the supervision of the Respondent no. 2 or the nominee as nominated by him.

Corrections

Carried

Out as

Per

Order

Dated

12.02.15

In

MCA No.

108 of 2015

- (ix) Rule is made absolute in the above terms.
- (x) Petition stands disposed of accordingly with no orders as to costs.

K. L. WADANE, J.

F. M. REIS, J.

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