

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.9479 OF 2015
ALONG WITH
CIVIL APPLICATION NO.2935 OF 2015**

Santosh Shivaji Sugare : Petitioner
versus
Proposed Ganesh Nagar Gruh Rachana Scheme
Co-operative Society
Through its promoter
Shri Shivaji Hanmant Sugare and ors. : Respondents.

Mr. R S Alange for the Petitioner.

CORAM : R. M. SAVANT, J.
DATE : 26th October 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 16/01/2015 passed by the learned Civil Judge, Senior Division, Solapur by which order the application (Exhibit 149) for deletion of the names of the Plaintiff Nos. 2 to 60 came to be allowed and the said Plaintiffs were accordingly permitted to be deleted from the cause title of the suit.

2 The suit was originally filed by the proposed Ganesh Nagar Housing Scheme Co-operative Society through its Chief Promoter Shri Shivaji Hanmant Sugare. The reliefs sought in the suit are more appropriately mentioned in the relief clause of the said suit. The Petitioner herein is the son of the said Shivaji Hanmant Sugare and was one of the parties amongst the said Plaintiff Nos.2 to 60 who were impleaded in the suit as Plaintiffs. The said

application was allowed by the order dated 11/02/2000 on the ground that they were the members of the said proposed society. The Chief Promoter Shivaji Sugare thereafter filed the instant application (Exhibit 149) for the deletion of the said Plaintiff Nos.2 to 60 on the ground that some of the members have resigned and that some have died. The said application has been allowed by the Trial Court by accepting the ground made out in the said application (Exhibit 149) by the original Plaintiff i.e. Shivaji Sugare.

3 The Petitioner aggrieved by the said order dated 16/01/2015 has filed the instant Petition. It is the contention of the Petitioner that the Petitioner is in occupation of the plot of land in which he has put up his structure and in which he is residing and therefore deletion of the Petitioner from the array of the Plaintiffs in the suit would prejudice the Petitioner. As indicated above, the suit was originally filed in the name of the proposed co-operative society by the Chief Promoter Shri Shivaji Hanmant Sugare and it is much after filing of the suit, that the members were impleaded as Plaintiffs to the suit which members have now been deleted pursuant to the impugned order dated 16/01/2015. The suit undoubtedly is being continued in the name of the said proposed co-operative society. It is required to be noted that the Petitioner had also filed application (Exhibit 128) for retaining some of the persons as parties who were impleaded by the order dated 11/02/2000 as Plaintiffs. It appears that the father and son are claiming to be in power in

respect of the said proposed co-operative society. If the Petitioner has any independent right it would always be open for the Petitioner to assert the said right by adopting independent proceedings and in the event any such proceedings are adopted, needless to state that the impugned order or the instant order would not come in the way of the Petitioner. With the aforesaid observations, the above Writ Petition is disposed of.

4 In view of the disposal of the above Writ Petition, Civil Application No.2935 of 2015 filed for amendment does not survive and the same to accordingly stand disposed of as such.

[R.M.SAVANT, J]