

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION (STAMP) NO. 1547 OF 2015**

- 1 Mr. Alimiya Umar Chougule
- 2 Mr. Mohammad Yusuf Mohd. Ibrahim
- 3 Mr. Omkar Kasim Ali Mulla
- 4 Mr. Mohammad Ataurrahim Mohd. Moosa
- 5 Mr. Asif Iqbal Ansari
- 6 Mr. Mohammad Shafi Mohd Sami
- 7 Mrs. Najma Mushtak Shaikh

All are Managing Committee Members
of New Shantivan CHS Ltd., Village Uttarshiv,
Gotheghar, Taluka & District Thane.

- 8 New Shantivan Co-operative Housing
Society Ltd., A Co-op. Housing Society
registered under the Maharashtra
Co-operative Societies Act, 1960,
through its Chairman/Secretary,
Village Uttarshiv, Gotheghar,
Taluka & District Thane.

....Petitioners.

Vs.

- 1 The Ministry of Co-operation and
De-Addiction Activities,
Government of Maharashtra
Mantralaya, Mumbai
- 2 The Divisional Joint Registrar,

Co-operative Societies, Kokan Bhavan,
Navi Mumbai.

- 3 The Deputy Registrar, Co-operative Societies, Thane Taluka, Thane, Vardhavat Mansion, Station Road, Thane (West).
- 4 Mr. Dawood Abdul Karim Chougule, Shop No.5, Opp. Nasheman Masjid, Nasheman Colony, Kausa, District Thane-400 612.
- 5 Mr. Mohammed Asif Qureshi, Flat No. A/03, Sai Apts., Qureshi Nagar, Umerwadi, Kurla East, Mumbai-400 070.
- 6 Mr. Sajid Hamza Pawne, B-502, SNM Height CHS, Plot No.110, Sector-50E, Seawoods, Nerul (West), Navi Mumbai-400 706.
- 7 Dr. Rawoot Moinuddin Yunus, Flat No.602, Wafa Park, Almas Colony, Kausa, Mumbra, District Thane-400612.
- 8 Mr. Nadeem Shaban Bamne, E-103, Nausheen Plaza, Behind Kadar Palace Hotel, Kausa, Mumbra, District Thane-400 612.
- 9 Mr. Siddiqui Habibullah Ataullah, R N 2A/237, Opp. Jama Masjid, Takiyawad, Kurla West, Mumbai-400 070.
- 10 Mr. Shakeel Ahmed Mohammed Yusuf, Yusuf Manzil, 237B, Opp. Jama Masjid, Takiyawad, Kurla West, Mumbai-400 070.

- 11 Mr. Farook Ahmad Fazlani,
C/o. Sawant Mohammad Sayyad,,
Flat No. 1201, Suncity Height,
Sector No. 44A, Seawood, Nerul (W),
Navi Mumbai 400 706.
- 12 Mrs. Shaikh Farzana Mohammad Sajjad,
Flat No. 603, A Wing, Asmeeta Sameet CHS,
Naya Nagar, Mira Road East,
Thane-401 107
-Respondents.

Mr. J.A. Udaipuri i/by Udaipuri & Co. for the Petitioners.
Ms. M.S. Bane, "B" panel counsel for Respondent Nos. 1 to 3.
Mr. Kishor S. Patil for Respondent Nos. 4 to 6 and 8.

CORAM:- ANOOP V. MOHTA, J.
DATE :- 17 FEBRUARY 2015.

ORAL JUDGMENT:-

The Petitioners have challenged order dated 25 September 2014 passed by Respondent No.1 under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (for short, "the MCS Act") thereby, the Revision Application filed by Respondent Nos. 4,5,6,8 and 11 is allowed and order dated 10 April 2012 passed by Respondent No.3-the Deputy Registrar, Co-operative Societies, Thane has been confirmed and order dated 9 July 2012 passed by Respondent No. 2-the Divisional Joint Registrar, is set aside.

2 The Petitioners submission to interfere with the reasoned orders, in the background that the affairs of the Society, in view of the orders passed by the Authorities, has been taken over by the Board of Administrator appointed by Respondent No.3, by order dated 10 April 2012. The election process of electing new Managing Committee for the Society has already been started. The voters list is published and the same is also finalized on 31 January 2015.

3 The Petitioners filed dispute No. CCT 201 of 2012 in the Co-operative Court, Thane and sought declaration that resolution Nos.10 and 11 placed in the meeting dated 24 July 2011 and subsequent acts, based upon the same be declared as illegal and further prayed to hand over the record of the Society to the disputants/Petitioners. An Application for injunction was sought for the same. The specific averments were made and the prayers were also made to restrain other side/Opponents from interfering with the affairs of the Society headed by the Petitioners (Disputants). The learned Court, during the pendency of the dispute, by giving reasons, rejected Exhibit-5 Application, on 31 October 2013. This order has attained finality, as there was no challenge raised and/or made against

the order rejecting their interim Application. The dispute is still pending.

4 Section 77A of the MCS Act, itself provides procedure to be followed and to see that the affairs of the Society to run smoothly whereby, the Registrar is empowered to take appropriate steps, where more than one group of members claiming to be elected as the committee members and proceedings in respect thereof, have been filed in the Co-operative Court and Administrator under Section 77A(f). In view of Sub-Sections (1-a)(a) and (2) and (3) of Section 77A of the MCS Act, Respondent No.3 has appointed the board of Administrator to run the affairs of the society, by order dated 10 April 2014. The same order has been maintained, even by Respondent No.1.

5 The learned counsel appearing for the Petitioners referring to the reply of the Respondents and specifically the fact as recorded in the meeting about the video shooting of proceedings, submitted to view the same, so that the matter so recorded would be clear, the way in which the meeting was conducted.

6 Considering the above facts and the time so passed, at this stage, I am not inclined to deal with the factual issues of the meeting, in this Writ jurisdiction. Even otherwise, for the reasons so recorded above, at this stage, the order so passed by the learned Authorities cannot be stated to be perverse and/or illegal and/or contrary to the provisions of the law.

7 This is a case, where two groups of the Society, for one reason or another, raising allegations and/or counter allegations that resulted into filing of disputes/litigations as referred above, specifically with regard to the Managing Committee of the Society. Therefore, the decision so taken starting from appointment of board of Administrator, as well as, holding the elections through the Competent Authority, in no way can be stated to be a case of interference with the orders/actions.

8 Therefore, by keeping all points open, the present Writ Petition is dismissed, with no order as to costs.

(ANOOP V. MOHTA, J.)