

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

WRIT PETITION NO.2726 OF 2011

1. **M/s. Saibaba Builders and Developers**
A Partnership firm registered under the provisions,
of Indian Partnership Act and having it's registered office
At 1199/1A/1 Tukaram Paduka Chowk,
F.C. Road, Pune 5, through Partner,
Shri. Shivkumar Tipanna Nelge,
Age-Adult, Occupation-Business,
O/at As above.
2. **Shri. Raghu Vithu Murukute,**
Age-70 years, Occupation-Agriculture,
3. **Mrs. Tarabai Raghu Murukute,**
Age 66 years, Occupation-Agriculture,
4. **Shri. Balasaheb Raghu Murukute,**
Age-45 years, Occupation-Agriculture,
5. **Mrs. Ranjana Balasaheb Murukute,**
Age-45 years, Occupation-Agriculture,
6. **Mr. Kishore Balasaheb Murukute,**
Age-18 years, Occupation-Agriculture,
7. **Mr. Kiran Balasaheb Murukute,**
Age-16 years, Occupation-Agriculture,
Being minor represented through
His father Shri. Balasaheb Raghu Murukute,
8. **Shri. Bhausahab Raghu Murukute,**
Age-49 years, Occupation-Agriculture,
9. **Mrs. Barakabai Bhausahab Murukute,**
Age-49 years, Occupation-Agriculture,
10. **Ms. Nirmala Bhausahab Murukute,**

- Age-19 years, Occupation-Agriculture,
11. Ms. Rupali Bhausahab Murukute,
Age-15 years, Occupation-Student,
12. Mr. Ravi Bhausahab Murukute,
Age-13 years, Occupation-Student,
13. Mr. Tushar Bhausahab Murukute,
Age-10 years, Occupation-Student,
No.11, 12, 13 above being minor
Represented through their father
Shri. Bhausahab Raghu Murukute,
14. Shri. Chandrakant Vithu Murukute,
Age-62 years, Occupation-Agriculture,
15. Mrs. Yamuna Chandrakant Deokar,
Age-40 years, Occupation-Housewife,
16. Mrs. Sushila Shankar Chinchwade,
Age-62 years, Occupation-Housewife,
17. Shri. Ramesh Chandrakant Murukute,
Age-47 years, Occupation-Agriculture,
18. Sau. Shakuntala Ramesh Murukute,
Age-40 years, Occupation-Housewife,
19. Mr. Bharat Ramesh Murukute,
Age-20 years, Occupation-Agriculturist,
20. Ms. Suvarna Ramesh Murukute,
Age-14 years, Occupation-Student,
21. Smt. Sangeeta Prakash Murukute,
Age-28 years, Occupation-Housewife,
22. Smt. Sudarshan Prakash Murukute,
Age-11 years, Occupation-Student,
Being minor represented through his mother
Sangeeta Prakash Murukute,
23. Shri. Nitin Chandra Murukute,

- Age-28 years, Occu-Agriculture,
24. Mrs. Swati Nitin Murukute,
Age 24 years, Occupation-Agriculture,
25. Mr. Akshaya Nitin Murukute,
Age-07 years Occ-Student,
26. Mr. Vijay Nitin Murukute,
Age-03 years, Occupation-Student,
No.25 and 26 being minor
represented through their father
Shri. Nitin Chandrakant Murukute,
27. Mrs. Manisha Dattatraya Devkar,
Age-19 years, Occu-Housewife,
28. Shri. Dattatraya Vithu Murukute,
Age-65 years, Occu-Agriculture,
29. Mrs. Chandrabhaga Dattatraya Murukute,
Age-60 years, Occupation-Housewife,
30. Smt. Urmila Subhash Murukute,
Age-32 years, Occupation-Housewife,
31. Mr. Abhijit Subhash Murukute,
Age-10 years, Occupation-Student,
32. Mr. Aniket Subhash Murukute,
Age-8 years, Occupation-Student,
Being minor represented through their mother
Smt. Urmila Subhash Murukute,
33. Shri. Kaluram Dattatraya Murukute,
Age-35 years, Occupation-Agriculture,
34. Mrs. Vaishali Kaluram Murukute,
Age 30 years, Occu-Housewife,
35. Ms. Dipika Kaluram Murukute,
Age 6 years, Occupation-Student,
36. Ms. Gauri Kaluram Murukute,

- Age-3 years, Occupation-Student,
37. Mr. Abhishek Kaluram Murukute,
Age-2 years, Occu-Nil,
No.35, 36 & 37 above being minor
represented through their father
Shri. Kaluram Dattatraya Murukute,
38. Shri. Pradhan Dattatraya Murukute,
Age-30 years, Occu-Agriculture,
39. Mrs. Sanjeevani Maruti Kalbhor,
Age-35 years, Occupation-Housewife,
40. Mrs. Sangeeta Sudhir Vidhate,
Age-30 years, Occupation-Housewife,
2 to 40 residing at Baner, Taluka Haveli,
District Pune.
41. Mrs. Lalita Vasant Banger,
Age-Adult, Occupation-Housewife,
2 to 41 represented through their
Power of attorney holder
Shri. Subhash Tipanna Nelge,
Age-Adult, Occu-Business,
O/at 1199/1A/1 Tukaram Paduka Chowk,
FC Road, Pune 5,
Through Power of Attorney holder
Shri. Shivkumar Tipanna Nelge,
Age-Adult, Occu-Business,
O/at 1199/1A/1 Tukaram Paduka Chowk,
FC Road, Pune 5
- .. Petitioners

Versus

1. Mr. Alok Gupta

- Age-29 years, Occupation-Service,
2. Dr. A. R. Srikrishnan,
Age-37 years, Occupation-Service,
3. Dr. Ajay Premchand Gupta,
Age-45 years, Occupation-Profession,
4. Dr. Bharat Tilokchand Oswal,
Age-45 years, Occupation-Profession,
5. Mr. Shashank Chaturvedi,
Age-29 years, Occupation-Service,
6. Mr. Anil Shrikrishna Joshi,
Age-41 years, Occupation-Chartered Accountant,
7. Mr. Shankar Sharanappa Tondare,
Age-67 years, Occupation-Retired,
8. Wng. Cdr. (Rtd) Suresh Vishwanath Mehendale,
Age-65 years, Occupation-Retired,
9. Dr. Prashant Ramesh Dharmadhikari,
Age 36 years, Occupation-Service,
10. Dr. (Mrs.) Manisha Ajay Bobade,
Age 36 years, Occupation-Profession,
11. Mr. Jayant Patil,
Age-Adult, Occupation-Service,
12. Mr. Shrishrimal Rahulkumar Ashok,
Age-Adult, Occupation-Business,
13. Mr. Chidanand Sham Bondade,
Age-Adult, Occupation-Business,
All Add/at-Sai Heritage, S. No.240,
Hissa Baner, Taluka Haveli, Dist-Pune,
14. Sai Heritage Co-operative Housing Society Ltd.
A Co-operative Society Registered under MSC Act, 1960
Having its address at
S. No.240/1+2+3 Baner, Pune 7

Through its Chairman,
Shanta Shankar Tondare,
Age-63 years, Occupation-Housewife,
And through it's Secretary
Alok Gupta,
Age 27 years, Occupation-Service,
Both having address as above

.. Respondents

Mr. N. V. Khaladkar, for the Petitioners.

Mr. J. S. Kapre, for the Respondents.

CORAM : R.M. SAVANT, J.

DATE : 15th SEPTEMBER, 2015

ORAL ORDER

1. Pursuant to the understanding between the Petitioners/ Developers and the Respondents/flat purchasers which was to the effect that if the Respondents withdraw the application filed by them under Order 39 Rule 2A of the CPC, the Petitioners would hand over the keys of the Club House and other amenities to the Respondents as representing the flat purchasers. The Learned Counsel appearing on behalf of the Petitioners Mr. N. V. Khaladkar tenders Affidavit-cum-undertaking bearing yesterday's date i.e. 14.09.2015 of one Shivkumar T. Nelge partner of the Petitioners that the Petitioners undertakes to hand over keys of the Club House and the other amenities to the Respondents, if the Respondents withdraw the application filed by them under Order 39 Rule 2A. A copy of

the said undertaking has been furnished to Mr. J. S. Kapre the Learned Counsel appearing for the Respondents. The Learned Counsel Mr. J. S. Kapre having regard to the said Affidavit-cum-undertaking on instructions makes a statement that the Respondents would withdraw the Misc. Application No.795 of 2008 filed by them under Order 39 Rule 2A of the CPC. The said statement of Mr. J. S. Kapre is accepted. The Affidavit-cum-undertaking filed by the Petitioners is also accepted. Both the parties i.e. Petitioners and the Respondents to remain present in the Trial Court on 16.09.2015 i.e. tomorrow at 3.00 p.m., to facilitate the above which includes handing over keys to the Respondents. In the light of the instant order, as also the Affidavit-cum-undertaking and the statement made on behalf of the Respondents, there is now no warrant to keep the above Petition pending as the same has arisen out of an order passed in the application under Order 39 Rule 2A. The Rule in the above Petition to accordingly stand disposed of in terms of the above. Parties to act upon a copy of this order duly authenticated by the Court Shirestedar.

[R.M. SAVANT, J]

CERTIFICATE

Certified to be true and correct copy of the original signed
Judgment/Order.