

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

WRIT PETITION STAMP NO.11423 OF 2015

**Royal Manor Co-operative Housing
Society Ltd.**

: Petitioner.

Versus

Angana Bharali Das and ors.

: Respondents.

Mr. S U Kamdar, Senior Advocate with mr. Gautam Ankhad and Mr. viral Shukla I/by M/s. Shukla & Associates for the Petitioner.

Mr. P S Dani, Senior Advocate, i/by Mr. Vijay B Dhingreja for the Respondent Nos.1 and 2.

CORAM : R. M. SAVANT, J.

DATE : 22nd April 2015

P.C.

1 The above Writ Petition is directed against the order dated 23/3/2015 passed by the learned President of the Maharashtra State Co-operative Appellate Court, Mumbai by which order the Revision Application filed by the Petitioner herein came to be dismissed. The said Revision Application was directed against the order dated 22/9/2014 passed by the learned Judge of the Co-operative Court No.II, Mumbai by which order the learned Judge decided the issue under Section 9A of the Code of Civil Procedure and ruled that the said Court had the jurisdiction to try and entertain the Dispute.

2 The invocation of Section 9A of the Code of Civil Procedure was made by the Petitioner having regard to the prayer clause (c) of the Dispute.

The said prayer clause (c) for the ready reference is reproduced herein under :-

“(c) By grant of Award and Decree the Opponent Society be Ordered to allot one of a parking space from the second parking in possession of the Opponent No.2 and 3 to the Disputant.”

3 After arguments were heard for sometime, the learned Senior Counsel Shri P S Dani, appearing for the Respondent Nos.1 and 2 i.e. the Disputants before the Co-operative Court, on instructions of Shri Vijay Dhingreja, the learned Advocate on record, makes a statement that the Disputants would give up the prayer clause (c) of the Dispute and would prosecute the Dispute in respect of the other prayers. Upon this, the learned Senior Counsel Shri S U Kamdar, appearing for the Petitioner states that the Petitioner has no objection if the Dispute is prosecuted in respect of the other prayers. The Statement made by the learned Senior Counsel Shri P S Dani appearing for the Respondent Nos.1 and 2 is accepted. The prayer clause (c) would accordingly stand deleted from the Dispute. In view of the said statement, there is now no warrant to consider the impugned order on merits. The impugned order to accordingly stand modified to the said extent. The Dispute would now proceed in respect of the other prayers. With the aforesaid observations, the above Writ Petition is disposed of.

[R.M.SAVANT, J]