

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.102 OF 2015

Mr. Imtaiz Sattar Oomerbhoy **Petitioner**

V/s

**Andromeda Co-operative Housing
Society Ltd. & Anr.** **Respondents**

Mr. Jamshed Ansari for Petitioner.
Mr. Vishal C. Ghosalkar for Respondents.
Ms. H.Y. Shah, AGP for the Respondent – State.

CORAM : A.A. SAYED, J.
DATED : 26 MARCH 2015

P.C.

1 By this Petition filed under Article 226 of the Constitution, the Petitioner has challenged the order passed by the Deputy Registrar, Co-operative Societies on 9 April 2013 which has been confirmed in Revision by the District Deputy Registrar Co-operative Societies by an order dated 2 June 2014.

2 By the impugned order of the Deputy Registrar, Co-operative Societies, Recovery Certificate has been issued under section 101 of the Maharashtra Co-operative Societies Act, 1960 and the Petitioner has been directed to pay to the Respondent Society a sum of Rs.6,07,386/- with interest at the rate of 21% per annum on the principal amount of

Rs.4,11,676/- from 1 April 2012 till realization. The amount pertains to the dues of the Petitioner as a member of the Respondent Society i.e. maintenance, repairs etc.

3 It is an admitted position that the Petitioner was served with the notice issued by the Deputy Registrar. It is also an admitted position that the Petitioner had appeared before the Deputy Registrar. The only grievance of the Petitioner is that the Petitioner was not supplied with the copy of the Application filed by the Respondent Society claiming the amount of arrears of dues. It is contended on behalf of the learned Counsel for the Petitioner that there has been violation of the principles of natural justice as the Petitioner was not heard in the matter. Learned Counsel for the Petitioner further submitted that there were certain discrepancies in the amounts paid by the Respondent Society and the matter be remanded to the Deputy Registrar.

4 Having heard learned Counsel for the parties, I am unable to accept the submissions urged on behalf of the Petitioner. As indicated earlier there is no dispute about the fact that the Petitioner was served with the notice of hearing by the Deputy Registrar and he has also appeared before the Deputy Registrar consequent upon notice being served. Learned Counsel for the Respondent Society has placed on

record a copy of the Roznama which indicates that the Petitioner had appeared before the Deputy Registrar initially but thereafter remained absent on number of occasions. The contention of the learned Counsel for the Petitioner that he had personally appeared before the Deputy Registrar and had sought copies of the Application made by the Respondent Society but the same was not recorded in the Roznama cannot be accepted. Admittedly neither Vakalatnama had been filed on behalf of the Petitioner before the Deputy Registrar nor was any such written Application made before the Deputy Registrar for furnishing copy of the Application made by the Respondent Society. It is seen that the Petitioner has been negligent in the matter and after appearing before the Deputy Registrar initially had failed to appear thereafter, and in these circumstances, I do not find that there has been any violation of principles of natural justice as sought to be suggested by the learned Counsel for the Petitioner. The Society cannot function if the members withhold the maintenance and repair charges. It is not the case of the Petitioner that he is not in a position to pay the amount. If the grievances of the Petitioner are genuine, the Society would certainly look into it once the payments as demanded are made. For the aforesaid reasons and in view of the two concurrent findings of the Authorities, I am not inclined to exercise the extraordinary writ jurisdiction of this Court to interfere with the impugned orders.

5 The Petition is dismissed. No order as to costs.

6 Learned Counsel for the Petitioner requests that in view of the statement made on behalf of the Respondent Society at the ad-interim stage, it may be directed that the Respondent Society should not take coercive steps for recovery of the amount for a period of two weeks from today. I am not inclined to accede to the request. The said prayer shall stand rejected.

(A.A. SAYED, J.)

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