

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

APPEAL NO.636 OF 2012
ALONG WITH
NOTICE OF MOTION NO.2337 OF 2012

Tukaram Dattu Kamble		Appellant
V/s.		
The Deputy Registrar,		
Co-operative Societies, Mumbai & Ors.		Respondents

The Appellant is present in person.

Mr. J.S. Saluja, A.G.P., for Respondent
Nos.1, 2 and 4.

Mr. P.G. Karande for Respondent No.3.

CORAM : V.M. KANADE &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 1ST OCTOBER, 2015.

P.C. :

1. We have heard the Appellant, who is present in person, at length and also heard the learned counsel appearing on behalf of the Respondents.

2. Appellant has filed his written submissions. Appellant is challenging the impugned order dated 6th July, 2012 passed by the learned Single Judge of this Court in O.O.C.J. Writ Petition No.412 of 2011, in which

order dated 30th June, 2010 passed by the Minister for Co-operation in Revision Application No.353 of 2009 and the other orders passed by the Divisional Joint Registrar, Co-operative Societies, and lower authorities were challenged.

3. Brief facts of the case are that a Society was formed under the Backward Class Co-operative Housing Scheme for the purpose of giving benefit of that Scheme to the people belonging to the Backward Class. Accordingly, on 3rd October, 1986, the Additional Collector, Suburban, granted land to Respondent No.3/Society and list of approved members. Subsidy to the extent of 30% was granted to all the members. Apart from that, loan to the extent of 50% i.e. Rs.9,99,000/- was sanctioned in favour of 16 members out of the 23 members of the Society. However, the Appellant was not given benefit of this loan. Thereafter, the Appellant wrote several letters to the Co-operative Authorities and there was exchange of correspondence between the Appellant and the Co-operative Authorities. The Appellant was expelled and his membership was cancelled by the Collector, Suburban, in a meeting held on 14th November, 1996.

4. It is submitted by the Appellant that he had paid a cheque of Rs.30,000/-. This cheque was not accepted by the Society. The Appellant also claims to have paid Demand Draft of Rs.50,000/- by R.P.A.D. to the Society, which was also not accepted by the Society. Several proceedings were initiated by the Appellant through the Co-operative Authorities. However, finally, all the Applications, Appeals and Revisions filed by the Appellant have been dismissed. The Writ Petition filed by the Petitioner/Appellant herein challenging the said order also has been

dismissed on 1st March 2004. It is an admitted position that the Society has constructed the flats and possession has been given to all the members.

5. The Appellant, who is present in person, has filed this Appeal against the impugned orders and it is his case that the Society and the Authorities had erred in not granting loan to the Appellant though he fulfilled the requisite criteria for grant of loan.

6. We have also heard the counsel for the Respondents, who had pointed out that the Appellant had failed in all the proceedings, which he had taken out and, therefore, this Court should not interfere with the order, which has been passed by the learned Single Judge of this Court and lower authorities.

7. We are afraid that the contentions of the Appellant cannot be accepted by us, firstly, because the concurrent finding has been given by all the authorities against the Appellant, which finding has been confirmed by the learned Single Judge. While exercising our appellate power under the Letters Patent, this Court cannot substitute the view which is taken by the learned Single Judge by its own view. Even otherwise, the fact remains that the Society has already constructed a building in 1995-96 and possession also was handed over to all the members. Unfortunately, the Appellant has missed the bus. He should have complied with the directions given by the Collector, Suburban and the Society. Since he failed to pay the requisite amount, his membership was cancelled. Under these circumstances, we are not in a position to entertain this Appeal.

8. We are, however, of the view that it is not in dispute that the Appellant fulfills the requisite criteria for allotment of the flat under the said Scheme. We, therefore, direct the Government to allot a flat to the Appellant from the Backward Class quota in any other building, which is constructed or is being constructed. The Appellant, however, shall pay the requisite amount towards the cost of construction of the flat, as laid down under the Scheme.

9. Though we are disposing of this Appeal, we are keeping this Appeal for direction after four weeks for the purpose of compliance of this order by the State Government.

10. With the above directions, the Appeal is disposed of.

11. In view of the above, Notice of Motion No.2337 of 2012 pending in the Appeal does not survive and the same is disposed of accordingly.

12. Place the disposed of Appeal on Board on 29th October, 2015 at 11:00 A.M. under the caption “for directions”.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[V.M. KANADE, J.]

CERTIFICATE

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