

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

WRIT PETITION NO.7272 OF 2015

M/s. Nayak Builders and Contractor	..Petitioner
Versus	
The State of Maharashtra and others	..Respondents

Shri. Sandesh Deshpande for the Petitioner.

Shri. S. D. Rayrikar, AGP for the Respondent Nos.1 to 3.

**Shri. Appasaheb Desai a/w Shri. R. S. Ghadge i/by Shri. P L. Gajbhiye
for the Respondent Nos.4 & 5.**

CORAM : R. M. SAVANT, J.

DATE : 5th DECEMBER, 2016

PC.

1 The order dated 25.09.2014 passed by the Appellate Authority i.e. the then Hon'ble Minister for Co-operation, Government of Maharashtra, allowing the Appeal filed by the Respondent Nos.4 and 5 herein is taken exception to by way of the above Petition.

2 By the said order, the Appellate Authority has set aside the order dated 10.08.2010 passed by the Divisional Joint Registrar, by which order, the application being No.10 of 2009 filed by the Petitioner came to be allowed and resultantly, the registration of the Respondent No.5 society dated 11.09.2009 came to be set aside.

3 The Respondent No.5 society comprises of the flat purchasers

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of the building constructed on the plot of land in question where earlier there was existing a bungalow belonging to the original owners. The Respondent No.4 herein was the chief promoter and the other flat purchasers had joined as co-promoters of the Respondent No.5 society. The said society was registered on 11.09.2009. The said registration was challenged inter-alia on the ground that the chief promoter did not have any authority in so far as the flat in his possession is concerned as he has not paid the purchase price of the said flat, as also the owners were not joined in the proposal for registration. The application filed by the Petitioner came to be allowed by the Divisional Joint Registrar by order dated 10.08.2010 and the registration of the Respondent No.5 society accordingly came to be set aside. The Respondent Nos.4 and 5 aggrieved by the same carried the matter by way of an Appeal before the State Government. The State Government has by the impugned order allowed the Appeal and set aside the order dated 10.08.2010 passed by the Divisional Joint Registrar. It has been recorded by the Appellate Authority i.e. the Hon'ble Minister for Co-operation that out of 14 flat purchasers, 11 have signed the proposal for registration. It has further been recorded that the Respondent No.5 has met preregistration requirements and that the Petitioner as well as Respondent No.2 to the application were heard by the Assistant Registrar before registering the society.

4 It seems that in so far as the original owners are concerned, a statement was made on behalf of the Petitioner that the heirs of the original owners would be made members of the Respondent No.5 society. In view thereof, there is now no impediment remaining in so far as the registration of the society is concerned. In that view of the matter, the impugned order passed by the Appellate Authority confirming the registration granted by the Assistant Registrar of Co-operative Societies does not call for any interference at the hands of this Court in its writ jurisdiction. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]