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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4041 OF 2015**

Janiv Nagrik Vikas Sangh

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

Mr. Devendra B. Sonawane for the Petitioner.

Mr. Dayanand Chandrakant Awari for the Petitioner (consent not obtained).

Mr. Manish Pabale, AGP for the Respondent No.1.

Mr. Jagdish G. Reddy (Aradwad) for the Respondent No.3.

Mr. S.M. Gorwadkar, Senior Advocate i/by Mr. Sujay H. Gangal for the Respondent No.6.

Mr. G.S. Godbole i/by Mr. Parag M. Tilak and Mr. Sumit S. Kothari for the Respondent Nos.7 to 81.

**CORAM : A.S. OKA &
A.A. SAYED, JJ.**

DATE : 29th SEPTEMBER, 2016

P.C.

1 This Petition is filed by Janiv Nagrik Vikas Sangh through Shri Rajaram Baburao Vanage describing as “authority holder”. This Petition was on board on 8th September, 2016 when Shri Sonawane, the learned counsel argued the Petition for sometime and was adjourned to 26th September, 2016. Shri Sonawane, the learned counsel made some submissions on 26th September, 2016 when his attention was invited by

the Court to the fact that Janiv Nagrik Vikas Sangh may not have authority to file this Petition on behalf of 73 Appellants who had preferred Appeal No.26 of 2014 before the Maharashtra Slum Areas (I.C.&R.) Tribunal, Mumbai. The challenge in this Petition is to the order of the said Tribunal by which the said Appeal was dismissed. On 26th September, 2016 time was granted to Shri Sonawane to take instructions on this aspect and accordingly, the Petition was adjourned till today which was shown high upon board.

2 Today, when the matter is called out, Shri Devendra Sonawane, the learned counsel is present. Shri Dayanand Chandrakant Awari, the learned counsel also appears and states that he wants to argue the Petition. He states that on 26th September, 2016 he has filed Vakalatnama on behalf of the Petitioner. He candidly accepts that he filed Vakalatnama without obtaining consent of Shri Sonawane who had already filed Vakalatnama. Rule 11 of the Rules framed by this Court under Section 34 of the Advocates Act, 1961 reads thus :-

“11. No Advocate shall be permitted to file an appointment or memorandum of appearance in any proceeding in which another advocate is already on record for the same party save with the consent of the former Advocate on record or the leave of the Court, unless the former Advocate has ceased to practise or has by reason of infirmity of mind or body, or otherwise become unable to continue to act.”

3 When we pointed out to Shri Awari that the act of filing Vakalatnama either without obtaining consent of the Advocate on record or without obtaining leave of the Court was not only contrary to Rule 11 but it may amount to professional misconduct, he states that he will not argue the Petition.

4 The learned counsel Shri Sonawane states that he is in a fix. He states that Court may pass appropriate order.

5 On 26th September, 2016 a prima facie view was expressed by this Court that this Petition cannot be entertained as 73 Appellants before the Appellate Authority were not parties to the Petition. After expression of prima facie view of this Court, on the same day, Shri Awari filed his Vakalatnama without obtaining consent of the Advocate who argued the Petition on that day. We have perused the Vakalatnama filed by Shri Awari. As disclosed earlier, this Petition is filed by Janiv Nagrik Vikas Sangh through Shri Rajaram Baburao Vanage describing himself as “authority holder”. Vakalatnama of Shri Awari is signed not only by Rajaram Vanage but also by Vijay Govind Khade and Shobha D. Kapde.

6 As Shri Awari after accepting the default committed by him states that he does not wish to continue his appearance, we are not issuing any further direction in this behalf.

7 From the title of the Appeal No.26 of 2014 on which the impugned order dated 24th March, 2015 is passed by the Maharashtra Slum Areas (I.C.& R.) Tribunal, it appears that though in the title, the name of the present Petitioner appears, the Appeal was in fact preferred by 73 individuals. The contents of the impugned Judgment show that grievance of the 73 individuals who were claiming to be occupants was canvassed before the Appellate Authority. The said 73 persons are not parties to this Petition.

8 We have perused Exhibit-A to the Petition. A copy of resolution No.11 dated 9th April, 2015 by the said Janiv Nagrik Vikas Sangh is annexed. It is not clear whether the resolution is passed by the Managing Committee of the Petitioner or by the General Body. It merely records that 11 persons were present who authorised Shri Rajaram Vanage to file a Writ Petition. The Resolution does not specifically record that the authority was conferred to file a Writ Petition for challenging the impugned order. At highest, Exhibit-A can be read as authority given by Janiv Nagrik Vikas Sangh to Shri Rajaram Vanage to file the present Petition on behalf of the said Janiv Nagrik Vikas Sangh. There is nothing placed on record to show that the Petitioner is authorised to represent 73 Appellants in Appeal No.26 of 2014 filed before the Maharashtra Slum Areas (I.C. & R.) Tribunal, Mumbai.

9 Considering what is stated above, we decline to entertain this Petition filed at the instance of the said Janiv Nagrik Vikas Sangh. The Petition is rejected. However, no adjudication is made as regards the grievances of 73 individuals who were the Appellants in the Appeal before the Tribunal.

(A.A. SAYED, J)

(A.S. OKA, J)