

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

WRIT PETITION (ST) NO.17897 OF 2015

Charkop Bhavneet Co-operative Housing
Society Ltd.

... Petitioner

Versus

Smt. Arti Ismail & Ors.

... Respondents

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Mr. M.M.Bhadrashete h/for Ms. Pooja B. Vagal , Advocates for the
Petitioner.

Mr. S.K.Shinde, Sr. Advocate with Mr. Sudam Kale, Advocates for
Respondent Nos.1 and 2.

Mr. S.D.Rayrikar, AGP for R.Nos.3 and 4.

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CORAM : R.M. BORDE, J.

DATE : 20TH SEPTEMBER, 2016

P.C. :

. The Petitioners are objecting to the order passed by the Registrar confirming the membership in favour of the Respondent Nos.1 and 2 by taking recourse to the provisions of Section 23(2) of the Maharashtra Co-operative Societies Act, 1960. The order passed by the Assistant Registrar has been confirmed by the Deputy Registrar and the Divisional Joint Registrar as well as the appellate authority.

2 Perused the order passed by the Respondent Authorities. I do not find any error in issuance of the directions by the Respondents confirming membership in favour of the Respondent Nos.1 and 2 under Section 23(2)

of the Maharashtra Co-operative Societies Act, 1960. The only objection that was raised by the Petitioner-Society opposing confirmation of membership on the Respondent Nos.1 and 2 is that predecessor in-title of the concerned Respondents did not have authority to allot two stilt parking spaces in favour of the Respondent Nos.1 and 2 under the Agreement/deed of conveyance. It is the claim of the society that parking spaces were allotted to the predecessor in-title of the Respondent Nos.1 and 2 for the utilisation for specific period and there is no permanent allotment of parking spaces and as such, it was not open for the predecessor in-title of the Respondent Nos.1 and 2 to create interest in favour of the Respondent Nos.1 and 2 in respect of those parking spaces. Merely because predecessor in-title of the Respondent Nos.1 and 2 did not have authority to alienate or create interest in favour of the Respondent Nos.1 and 2 in respect of those parking spaces cannot be ground for refusing membership to the Respondent Nos.1 and 2. Authorities below have adopted correct approach in the matter. The issue in respect of authorisation of predecessor in-title of the Respondent Nos.1 and 2 to create interest in favour of the Respondent Nos.1 and 2 as regards parking spaces shall have to be dealt with separately and cannot be clubbed with right of the Respondent Nos.1 and 2 to claim membership of the society. It is informed that the Petitioner-Society has already taken up proceeding as regards the creation of interest in relation to parking spaces in favour of the Respondent Nos.1 and 2. It would be open for the Petitioner-Society to pursue these proceedings or adopt appropriate proceedings as regards grievance of the society as permissible in law and instant orders passed by the Respondent-Authorities shall not be impediment for consideration of such issue .

3 In view of above, the Writ Petition is disposed of.

(R.M. BORDE, J.)