

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

WRIT PETITION NO. 12211 OF 2015

M/s. Sweet Home Interiors Pvt Ltd. ... Petitioner
Vs
M/s. Archana Kutir Co-operative
Housing Society Ltd. ... Respondent
...

M. C. Dixit for the Petitioner.
Rajendra Megh for Respondent.

CORAM : N. M. JAMDAR, J.
DATE : 26 OCTOBER, 2016

P.C. :

1. The petitioner has challenged the orders passed by the learned Co-operative Court Judge and the learned Co-operative Appellate Court and has sought a prayer that the respondent society be directed to produce the original relevant record which are sought for by notice dated 20th May 2010.
2. The orders challenged are purely interlocutory. The dispute filed by the petitioner wherein the petitioner has taken exception to levy of certain charges by the respondent society is under consideration of the Co-operative Court. The learned counsel for the petitioner has restricted the challenge in this petition to the production of documents specified a notice dated 20th May 2010.

3. The petitioner has sought certain documents such as minutes, ledger account, audit income and expenditure sheets and register for last 25 years from the respondent society. The matter regarding recovery of dues from the petitioner is pending. In this context such litigation at the interim stage by the petitioner will have to be viewed. Prima facie such documents for last 25 years are not strictly necessary. Even otherwise by instituting the dispute and taking a stand that the levy of impugned charges is not as per the accounts as well as the decision, the burden has shifted on the respondent society that it is as per their records. Therefore, it is upto the respondents to justify their claim which is impugned in the dispute. The learned Counsel for the respondent has also accepted this position regarding the burden. Therefore if the respondent does not produce documents to justify its claim which is impugned in the dispute, it is always open to the Co-operative Court to draw such an inference as may be permissible in law against such party.

4. In these circumstances, no interference is warranted. Writ Petition is disposed of. It is open to the parties to make a request for expeditious disposal of the dispute.

(N. M. JAMDAR, J.)