

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 527 OF 2016
WITH CA/3318/2016 IN WP/527/2016

SHANKAR NAGAR CO-OPERATIVE HOUSING SOCIETY
VERSUS
DIVISIONAL JOINT REGISTRAR, COOP. SOCIETIES & ORS

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Advocate for Petitioner : Shri Suryawanshi Kamlakar J.
AGP for Respondents 1 & 2 : Shri Tambe S.K.
Advocate for Respondents 3 to 18 : Shri Awate U.R.
h/f Shri Talekar S.B.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: July 24, 2017

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PER COURT :-

1. The petitioner is aggrieved by the order dated 16.11.2015, by which, the application for intervention filed by respondent Nos.3 to 18 in this petition has been allowed and they have been permitted to intervene in the Revision Application No.15 of 2015, filed by the petitioner / Society.

2. The grievance of the petitioner is that when the Divisional Joint Registrar, Cooperative Societies allowed the intervention application, a conclusion has been arrived at that these respondents appear to be members of the Society. It is, therefore, submitted that when the issue of whether they are members or

not is to be considered in the Revision Application, a passing reference to the effect that they are members would jeopardize the contentions and claims of the petitioner.

3. Learned Advocates for the respondents submit that the conclusion of the Divisional Joint Registrar is based on the list of candidates entitled to contest the elections of 2008. These respondents also contend that they are members of the petitioner / Society. If the issue as to whether they are members or not is to be gone into, the records can be perused. Since, prima facie, he has concluded that the respondents are members, the impugned order cannot be set aside.

4. I am of the view that the Divisional Joint Registrar has only referred to the list of eligible candidates published during the election of 2008, while allowing the application of the respondents. It is a prima facie observation and would not conclude the issue that the membership of these 15 persons has been proved.

5. Considering the above, this petition is disposed off for the reason that the observation of respondent No.1 is limited to the intervention application and would not tantamount to a

conclusion as regards the membership of these 15 persons. Said issue and the contentions of the parties are kept open to be considered in the Revision Application No.15 of 2015 by respondent No.1, in accordance with law. It is made clear that this Court has not expressed any opinion on the contentions of the litigating sides, as well as whether respondent No.1 would be the competent authority to decide the membership issue.

6. Pending Civil Application does not survive and is, therefore, disposed off.

(RAVINDRA V. GHUGE, J.)

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