

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10637 OF 2015

Shri Anant Krishnaji Date] Petitioner

Vs.

Vandana A, A-1 and A-2 C.H.S. Ltd]
(proposed) through its office bearer & Ors] Respondents

WITH

WRIT PETITION NO. 1743 OF 2016

Vandana 'C' Co-operative Housing]
Society Ltd.] Petitioner

Vs.

Vandana A, A-1 & A-2 Co-operative]
Housing Society Ltd. & Ors.] Respondents

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Mr. P.K. Dhakephalkar, Senior Advocate i/b Mr. Parag Pokale, for the petitioner in W.P. No. 10637 of 2015.

Mr. Pankaj J. Das, for petitioner in W.P. No. 1743 of 2016.

Mr. Owen Menezes a/w Mr. Aniket Ranshubhe & Eeshank Gour i/b Mr. Ajay Basutkar, for respondents No.1 and 2 in W.P. No. 10637 of 2015 and W.P. No. 1743 of 2016.

Mr. S.D. Rayrikar, A.G.P., for respondent No.4 in Writ Petition No. 10637 of 2015 and respondents No. 3,4 and 5 in Writ Petition No. 1743 of 2016.

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CORAM : R.G. KETKAR, J.

DATE : 10TH APRIL, 2017.

P.C.

Heard Mr. P. K. Dhakephalkar, learned Senior Counsel for petitioner in W.P. No. 10637 of 2015 and Mr. Pankaj J. Das, learned Counsel for petitioner in W.P. No. 1743 of 2016, Mr. Owen Menezes, learned Counsel for respondents No.1 and 2 in both the petitions and Mr. Rayrikar, learned A.G.P for respondent No.4 in Writ Petition No. 10637 of 2015 and for respondents No. 3,4 and 5 in Writ Petition No. 1743 of 2016 at length.

2. On the oral application made by Mr. Dhakephalkar, leave to delete respondent No.3, Thane Municipal Corporation, Thane from Writ Petition No. 10637 of 2015 is granted. Amendment shall be carried out forthwith.

3. Writ Petition No. 10637 of 2015 is directed against the judgment and order dated 21st August, 2015 passed by the Hon'ble Minister for Co-operation, Government of Maharashtra in Revision Application No. 202 of 2015. Petitioner has also prayed for injunction restraining respondents No.1 and 2 from acting upon

the order dated 21st August, 2015 passed by the Hon'ble Minister of Co-operation, State of Maharashtra and the order dated 1st September, 2015 passed by the Deputy Registrar, Co-operative Societies Thane City, Thane.

4. Writ Petition No. 1743 of 2016 takes exception to the order dated 21st August, 2015 passed by the Hon'ble Minister of Co-operation, Government of Maharashtra in Revision Application No. 202 of 2015 and the order dated 1st September, 2015 passed by the Deputy Registrar, Thane City, Thane.

5. Rule. Learned Counsel for the respective respondents waive service. In view of the narrow controversy raised in these petitions, as also at the request and by consent of the parties, rule is made returnable forthwith and the petitions are taken up for final hearing.

6. Mr. Dhakephalkar submitted that by order dated 21st August, 2015, Hon'ble Minister for Co-operation upheld the order dated 25th April, 2014 passed by Deputy Registrar, Co-operative Societies, Thane City, Thane and upheld bifurcation of Vandana Co-

operative Housing Society Limited, Thane into 4 independent and separate Societies. He submitted that in the order, Hon'ble Minister noted that there was unanimity between the parties about bifurcation of the Society. The demand was about allotment of proportionate land to the Societies. The matter was remitted to the Deputy Registrar for allotment of land in proportionate to the area of flats in possession of the members of the Society. He submitted that in pursuance thereof, on 1st September, 2015, Deputy Registrar passed the order wherein Vandana-C Co-operative Housing Society was registered in respect of 24 flats having carpet area of 501 square feet. Though, the Hon'ble Minister has bifurcated Vandana Co-operative Society in 4 Societies, Vandana B Co-operative Housing Society consisting of 16 flats and Vandana- A, A-1 and A-2 Co-operative Housing Societies consisting of 40 members were amalgamated into one Society. In pursuance thereof, on 8th September, 2015, Deputy Registrar issued Certificate of Registration in favour of new Vandana Co-operative Housing Society Limited. He invited my attention to application dated 27th August, 2015 made on behalf of Vandana Co-operative Housing Society Ltd. A, A-1, A-2, B-2, Vandana B for amalgamation of three Societies into one Society. He submitted that the said proposal was

not served on the petitioner, as also the petitioners were not heard before passing the order on 1st September, 2015 amalgamating three societies into one society. He also invited my attention to application dated 7th September, 2015 made for registration of society and the submissions put up before the Deputy Registrar giving no objection for registering new Vandana Co-operative Housing Society Limited consisting of 72 members.

7. On the other hand, Mr. Menezes supported the impugned order, as also the order dated 1st September, 2015 passed by Deputy Registrar Co-operative Society. He submitted that after the Deputy Registrar passed the order on 25th April, 2014, Petitioner was registered on 2nd June, 2014. He submitted that petitioner is not concerned with amalgamation of three Societies.

8. After arguing the petition for quite some time, he submitted that by consent of respondents No.1 and 2, order dated 1st September, 2015 passed by Deputy Registrar, as also certificate of registration dated 8th September, 2015 issued in pursuance thereof, may be cancelled and the Deputy Registrar may be directed to dispose of the proceedings in a time bound manner. He

invited my attention to paragraph 9 of the affidavit dated 15th March, 2017 made by Shankarlal M. Karwa, Treasurer of respondents No.1 and 2.

9. In view thereof, by consent of the parties, petitions are disposed of in the following terms:

[1] Order dated 1st September, 2015 passed by the Deputy Registrar Co-operative Societies, Thane City, Thane is set aside. Consequently, Registration Certificate dated 8th September, 2015 issued in favour of new Vandana Co-operative Housing Society Limited also stands cancelled;

[2] Petitioners shall file reply to the application dated 27th August, 2015 made by respondents No.1 and 2 within two weeks from today and serve reply on respondents No.1 and 2 during this period;

[3] Respondents No. 1 and 2 shall file rejoinder within one week from service of reply of the petitioners;

[4] Petitioners and respondents No.1 and 2 agree that they will appear before the Deputy Registrar on 9th May, 2017 and for that purpose, no fresh notice be issued to

them;

[5] Deputy Registrar Co-operative Society, Thane City, Thane will give suitable date for hearing of the proceeding and will decide the same as expeditiously as possible and preferably within 4 weeks from the date of fixing the suitable date for hearing of the proceedings.

[6] All contentions of the parties are expressly kept open.

[7] Rule is made absolute accordingly in both the petitions with no order as to costs.

[R.G. KETKAR, J.]