

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

WRIT PETITION NO.2404 OF 2016

Chetan Malhotra & Anr.

.... Petitioners

versus

The Dy. Registrar & Anr.

... Respondents

.....

- Mr.S.M. Oak i/b. Mr.S.A. Joshi, Advocate for the Petitioners.
- Mr.T.K. Sinha, Advocate for the Respondent No.2.
- Ms.N.M. Mehra, AGP for the Respondent No.1.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.**
DATE : 04th OCTOBER, 2017.

P.C. :

1. The above petition has been filed for a direction that the Respondent No.1 to direct the society in question i.e. the Respondent No.2 to issue a NOC for sale of flat No.702 in the Respondent No.2 Society (wrongly referred to as flat No.802 and 803 in order dated 24/04/2015). In view of the reluctance of Respondent No.1 Society to issue the said NOC, the petitioner seems to have approached the Deputy Registrar of Co-operative Societies, Thane. Pursuant to which, the Deputy Registrar has issued the direction as contained in the said order dated 22/04/2015 in exercise of the powers conferred u/s 79(2) of

the Maharashtra Co-operative Societies Act, 1960. In spite of the directions, the NOC has not been issued to the Petitioner.

2. It seems that subsequent to the said order, the Deputy Registrar, has passed another order for audit of the Society and had appointed one Nandlall Chang as the Certified Auditor to carry out the said audit. However, the work relating to the audit has not been carried out in view of the fact that the office bearers of the Society have not made available the record to the Certified Auditor. The learned counsel appearing for the Respondent No.2 Society Mr. T.K. Sinha contend that the society has not complied with the said order in view of the fact that the Petitioner, who was the office bearer during the relevant period, of which Audit is required to be carried out, is not cooperating in carrying out the said Audit and it is in the said circumstance that the Respondent No.1 Society has not complied with the said order. Upon this, the learned counsel appearing on behalf of the Petitioner Mr.S.M. Oak contend that apart from flat No.702, the Petitioner has also in his possession flat No.802 and 803 in the said society and therefore his membership would continue notwithstanding the sale of the said flat No.702.

3. In our view, since the Deputy Registrar has already issued directions u/s 79(2) of the Maharashtra Co-operative Societies Act, it would be necessary that the said directions are taken to their logical conclusion. The Respondent No.1 society, if has any justification for not complying with the said direction, it may give the said justification to the Deputy Registrar Co-operative Societies, Thane, who would consider the same appropriately. However, if the justification is not found tenable, then the Registrar is required to see to that his direction is complied with by taking such steps, as are necessary and are permissible in law. For the aforesaid modality, to be completed, we grant the Deputy Registrar a period of six weeks from date. The justification, if any, of the Petitioner Society, would be addressed to the Registrar within two weeks from date.

4. With the directions as above, the Writ Petition is disposed of.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)