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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL No. 313 of 2013

IN

WRIT PETITION No. 3943 of 2012.

ALONG WITH

CIVIL APPLICATION No. 21 of 2016.

Shri Ashwin Vallabhdas Mehta

..Appellant/Orig.
Respondent No.4.

Vs

Santoshi Ma Nagar CHS Ltd & 29 Ors

..Respondents.

Mr. Himanshu Kode for the Appellant.

Mr. N.N. Bhadrashete for Respondent No.1.

Mr. Vishal B. Thadani, A.G.P. for Respondent Nos.2 and 3.

CORAM : V.M. KANADE & C.V.BHADANG,JJ.

DATED : 4th APRIL, 2017.

PC.

1) Heard learned counsel for the appellant, learned counsel for respondent No.1 and the learned A.G.P. for Respondent Nos. 2 and 3.

2) The appellant is aggrieved by the order dated 12th September, 2012 passed by the learned Single Judge of this Court. By the said order, the learned Single Judge is pleased to allow the petition filed by respondent No.1 and was further

pleased to set aside the impugned order passed by the Divisional Joint Registrar (Respondent No.3 herein) under section 21-A of the Maharashtra Co-operative Societies Act, 1960 ("the Act" for short) and was pleased to direct De-registration of the Society which was earlier registered by the Assistant Registrar. This order was confirmed by the Hon'ble Minister for Cooperation, Mantralya, Mumbai.

3) Respondent No.1-Cooperative Housing Society, being aggrieved by the said order presented Writ Petition No.3943 of 2012. The learned Single Judge has observed that the Divisional Joint Registrar and the Hon'ble Minister for Cooperation and Textiles, Government of Maharashtra, did not have the jurisdiction and authority to decide the title between the parties. The contention of the appellant therein was that the Society has made misrepresentation that they are the owners of the land when in fact the appellant claimed to be the owner of the land. The learned Single Judge observed that to decide this issue of misrepresentation, it was necessary to decide the title. The learned Single Judge further observed that neither the Divisional Joint Registrar nor the Hon'ble Minister for Cooperation had jurisdiction to decide the said

issue and on that ground he was pleased to allow the writ petition.

4) In paragraph 21 of the said order the learned Single Judge has clarified that he has neither dealt with nor decided the issue of right, title or interest claimed by respondent No.4 i.e. the appellant herein and also by the petitioners in the immovable property. He has clarified that if such an issue is pending or any proceedings are filed in future then that issue will be decided on its own merit and in accordance with law without being influenced by the decision in the petition.

5) We concur with the view of the learned Single Judge. If the appellant is claiming any right, title or interest, he can always take recourse to such proceedings to establish such right, title or interest and seek interim relief in a suit or proceeding instituted by him. No ground is made out for interference in the impugned order passed by the learned Single Judge. The appeal is therefore dismissed. We again reiterate that if any proceedings are taken out by the appellant claiming his right, title or interest to the said property, the said proceedings shall be decided on its own merits and in accordance with law. The Letters Patent Appeal is disposed of.

Interim relief, if any, stands vacated.

6) In view of disposal of the Letters Patent Appeal, Civil Application No.21 of 2016 does not survive. Same is disposed of.

(C.V. BHADANG,J)

(V.M. KANADE, J.)