

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.825/2017
IN
WRIT PETITION NO.4655/2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Pradip R. Kadam for the applicant
Mr. Govind B. Pawar for the petitioner
Mr. S. H. Kenkal, AGP for respondent Nos.1 and 2.

CORAM : K. K. TATED, J.

DATE : JUNE 12, 2017

P.C.:

1. Heard. This application is made by the elected members of respondent No.1 society – Maharashtra Welfare CHS Ltd. who were elected on 05.04.2015 for the period 2015 to 2020, to vacate clause (6) of the order dated 15.07.2014 passed by this court in the Writ Petition which reads thus:

“(6) In the mean time, status quo as on date to be maintained by the parties, which would also include that the respondent No.3 to 6 and 9 to 11 are restrained from taking any policy decision until further orders”.

2. The learned counsel for the applicant submits that in view of subsequent development, nothing survives in the Writ Petition itself. He submits that, earlier, this court had passed order dated 15.07.2014 restraining the then Managing Committee members from taking any policy decision on behalf of the society. He submits that during pendency of the petition, fresh elections were held and the results were declared on 05.04.2015. He submits that the election for the period 2015 to 2020 was not challenged by any one. He submits that in view of the subsequent development, clause (6) of the impugned order dated 15.07.2014 is required to be recalled. Because, it is not possible for the elected members of the managing committee to take any policy decision on behalf of and in the interest of the society.

3. On the other hand, the learned counsel for the petitioner vehemently opposed the Civil Application. He submits that the Writ Petition itself is required to be decided on merits immediately. He submits that in the present petition, the petitioner challenges the decision taken by the committee members and passed no-confidence resolution against him. He submits that though there was

order passed by this court directing the respondent to maintain status quo, they held the election. Hence, the petitioner filed the Contempt Petition No.167/2015 which is pending for hearing and final disposal on merits. Hence, there is no question of vacating clause (6) of the order dated 15.07.2014 passed by this court.

4. Heard both sides at length. It is to be noted that the status quo order passed by this court on 15.07.2014 was against the earlier Managing committee members i.e. who were elected for the period 2010-2015. Thereafter, fresh elections were held and results were declared on 05.04.2015. In that election, the applicants were declared as members of Managing Committee. Subsequent election was not challenged by the petitioner or any one else. Hence, same is binding on all the parties including the society.

5. To take appropriate decision in the interest of society, it is necessary that the Managing Committee, which was constituted in view of the resolution passed on 05.04.2015, is required to take their decision. Hence, the status quo order passed by this court is required to be recalled.

6. Considering these facts, the Civil Application is partly allowed as under:

7. Clause (6) of the order dated 15.07.2014 passed by this court in the Writ Petition which reads as follows, is recalled.

“(6) In the mean time, status quo as on date to be maintained by the parties, which would also include that the respondent No.3 to 6 and 9 to 11 are restrained from taking any policy decision until further orders”.

8. Civil application stands disposed off accordingly.

JUDGE