

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
LETTERS PATENT APPEAL NO. 100 OF 2013  
IN  
WRIT PETITION NO.4946 OF 2010**

**Gayatri Co-op Housing Society Ltd & Anr**

**..Appellants**

**Vs.**

**Mrs. Shubhada Prakash Botre & Ors**

**..Respondents**

**WITH  
CIVIL APPLICATION NO.125 OF 2013  
IN  
LETTERS PATENT APPEAL NO. 100 OF 2013  
IN  
WRIT PETITION NO.4946 OF 2010**

**Gayatri Co-op Housing Society Ltd & Anr**

**..Applicants**

**Vs.**

**Mrs. Shubhada Prakash Botre & Ors**

**..Respondents**

**Ms Manjiri Parasnis for the Appellants**

**Mr. S. S. Patwardhan for the Respondent No.1**

**Ms Kavita Solunke AGP for State Respondent No.2 & 3**

**CORAM :R. M. SAVANT, &**

**SMT. SADHANA S JADHAV JJ**

**DATE : 4<sup>th</sup> JULY, 2017**

**P.C.**

1           The above Letters Patent Appeal takes exception to the order dated 17-10-2012 passed by a Learned Single Judge of this Court in the above Writ Petition. By the said order, the above Writ Petition came to be dismissed. The subject matter of the above Writ Petition was the order dated 28-5-2008 passed by the Divisional Joint Registrar, Co-operative Society, Pune Division, Pune. By the said order, the Divisional Joint Registrar had allowed the

Revision Application being No.282 of 2007 filed by the Respondent No.1 herein. The proceedings had reached the Divisional Joint Registrar by way of Revision in view of the fact that the Respondent No.1 had made an application for membership which was rejected by the Appellant society by imposing three conditions mentioned in the reply to the said application. This resulted in the Respondent No.1 filing an Appeal under Section 23(2) of the Maharashtra Co-operative Societies Act 1960. (for short the said Act). The said Appeal filed by the Respondent No.1 came to be rejected by the Deputy Registrar, Co-operative Societies, Pune City-II, by order dated 26-4-2007.

2           Aggrieved by the said order dated 26-4-2007 passed by the Deputy Registrar, Co-operative Societies, the Respondent No.1 filed a Revision under Section 154 of the said Act before the Divisional Joint Registrar, Pune Division Pune. The Divisional Joint Registrar as indicated above has by the order impugned in the above Writ Petition i.e. the order dated 28-5-2008 allowed the said revision and directed the Appellant herein to enroll the Respondent No.1 as a member of the society. The Divisional Joint Registrar has observed that the Act of the Appellant society regarding the membership being subject to condition amounts to refusal of membership to the Respondent No.1 herein. The Divisional Joint Registrar observed that the options or the conditions put by the Appellant/Petitioner society can be dealt with once the Appellant i.e. the Respondent herein is admitted to the

membership of the society. As indicated above, the said order dated 28-5-2008 came to be challenged by way of the above Writ Petition.

3           The Learned Single Judge S.C.Dharmadhikari, J., has by the order impugned in the above LPA has dismissed the Writ Petition. The Learned Judge has observed that the directions issued by the Divisional Joint Registrar vide his order dated 28-5-2014 as an innocuous direction as all that has been directed is to enroll the Respondent No.1 herein as a member. The Learned Judge has observed that whether the Respondent can be provided a house or plot or the monies paid by him can be refunded are not issues germane to the grant of membership to the Respondent No.1. The Learned Judge therefore in a way directed the Appellant society to proceed to enroll the Respondent No.1 as a member without prejudice to the rights and contentions of the parties.

4           In our view, having regard to the observations made by the Learned Single Judge in the impugned order, the directions of the Divisional Joint Registrar to enroll the Respondent No.1 as a member does not merit any interference in our Letters Patent Jurisdiction. It is made clear that though the Respondent No.1 would be enrolled as a member, the issue as regards his entitlement to a row house or an open plot or the refund of monies or a larger plot of land, as the issue as regards the legality and validity of the resolution in so far as it imposes the conditions is kept open for being agitated at the

appropriate time. Hence without interfering with the impugned order, however with the clarification as above the above LPA is disposed of.

5            In view of the disposal of the LPA, the above Civil Application does not survive and to accordingly stand disposed of as such.

**[SMT SADHANA JADHAV, J]**

**[R.M.SAVANT, J]**