

BDPPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3077 OF 2017**

Mr. Anoop Kumar
Chief Promoter, Gera Sky Villas
Co-operative Hsg Society Ltd. Petitioner.

V/s

State Bank of India and Ors. Respondents.

Mr. Pawan Patil i/b Triyama Legal for the Petitioner.
Mr. Anand Bhautik a/w Mr. P.B. Gujar for Respondent Nos. 1 and 2.
Mr. Dorman J. Dalal for Respondent No.3.

**CORAM: V. M. KANADE &
A.S. GADKARI, JJ.**

DATE: 16th March, 2017

P.C.:-

1] Heard the learned Counsel for the Petitioner, the learned Counsel for the State Bank of India and the learned Counsel appearing on behalf of Respondent No.3.

2] Petitioner is aggrieved by the decision taken by the State Bank of India, which is not permitting Gera Villas Co-operative Hsg. Society Ltd of which Petitioner is a Chief Promoter to operate the the Bank Account opened by the Society in its own name. It appears that initially the Petitioner, Chief Promoter of the Society had applied for

registration of the Society with the Deputy Registrar, Cooperative Societies. Permission was granted by the Deputy Registrar and thereafter the Society opened a Bank Account in the State Bank of India, WTC Branch, Pune.

3] Respondent No.3 – Developer challenged the said order passed by the Deputy Registrar by filing two appeals; one challenging the registration of the Society and the other challenging the certificate of registration which is granted. These two appeals viz Appeal No.74/2016 and Appeal No.8 of 2016, when they were pending before the learned Divisional Joint Registrar, Pune, Writ Petition was filed by the said Society in this Court vide Writ Petition No.12440 of 2016. The learned Single Judge of this Court by order dated 27/10/2016 took on record Minutes of the Order which were filed by both the parties and disposed of the Writ Petition in terms of the Minutes of the Order. Clause (4) of the Minutes of the Order mentions that Petitioner/Society would undertake to spend money for day-to-day work of the Petitioner/Society from their own bank account till hearing and final disposal of both the appeals. Petitioner/Society had also given an undertaking that it would maintain receipts for the same. Thereafter, both these appeals came up for hearing and the appeals came to be allowed. Petitioner has challenged the order passed by the learned Divisional Joint Registrar, Pune by filing appeals before the Hon'ble Minister. So far as the appeal against cancellation of registration is concerned, the Hon'ble Minister was pleased to grant

stay to the said order.

4] Petitioner - Chief Promoter of the Society is now seeking an appropriate direction to the Bank, directing the Bank to permit the Society to operate the Bank Account.

5] The learned Counsel appearing on behalf of State Bank of India invited our attention to the xerox copy of the E-mail received by him from the Branch Manager. In the said E-mail, it is mentioned that they do not have any objection for the Society operating the said Account. The learned Counsel appearing for Respondent No.3 submitted that in view of the undertaking given by the Society in clause (4) of the Minutes of the Order passed in Writ Petition No. 12440 of 2016, it is not now open for the Chief Promoter of the Society to seek operation of the Bank Account since the appeals were allowed in favour of the Developer. Secondly, he has submitted that Respondent No.3 is willing to spend money for day-to-day work of the Society. He has also raised some other objections on the basis of the Minutes of the Order which have been filed before the learned Single Judge in the said Writ Petition.

6] After having heard both sides, we are of the view that since the matter is pending before the Hon'ble Minister and stay has been granted by the Minister to the order passed by the Divisional Joint Registrar, Pune, Developer cannot take objection for operation of the

Bank Account of the said Society. The Bank Account is to be operated by two authorized signatories viz. Chairman and Secretary of the Society. The operation of the Bank Account is therefore a matter between the Bank and the Members of the Society and Developer cannot have any objection for operation of the Bank Account of the Society. We are not concerned with other disputes between the developer and the Society.

7] We therefore permit the Society of which the Petitioner is a Chief Promoter to operate the said Bank Account and the Society will spend money for day-to-day work of the Society from the said Account of the Society and the Society shall also maintain receipt for the same. The said Account of the Society shall remain operative till pendency of appeals before the Hon'ble Minister.

8] Petition is disposed of in the aforesaid terms.

(A.S. GADKARI, J.)

(V.M. KANADE, J.)