

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

WRIT PETITION NO. 7725 OF 2014

Shri Anilkumar Shrimal Katariya
and Ors.

..Petitioners.

Vs

Shri Rajendra Madanlal Dangi
and Ors.

.. Respondents

None for Petitioners.

Mr. S.N.Chandrachood, Advocate for Respondent No.1.

Mr S.D.Rayrikar, A.G.P. for Respondents no. 2 and 3.

CORAM : R.G.KETKAR,J.

DATE : 24/04/2017

PC:

1. Heard Mr.S.N.Chandrachood, learned counsel for Respondent no.1 and Mr.S.D.Rayrikar, learned A.G.P for respondents no. 2 and 3. The matter was heard at length on 10.4.2017 and at the request of the learned counsel for the petitioners, it was adjourned till today for passing order. None appears on behalf of the petitioners.

2. This Petition takes exception to the Judgment and order dated 30.6.2012 passed by respondent no.2-Deputy Registrar, Co-operative Societies, Pune City (3), Pune, as also the Judgment and order dated 5.6.2014 passed by respondent no.3, Divisional Joint Registrar, Co-operative Societies, Pune Division, Pune. By these orders, the authorities below directed the petitioners to transfer the membership of Dr. Amar Keshvlal Abad in favour of

respondent no.1 herein.

3. In support of this petition, on behalf of the petitioners contentions that were advanced before the authorities below were reiterated. It was contended that respondent no.1 is not qualified to become member of the petitioner-society. In order to get membership, he has to satisfy the requirements laid down in Bye-laws. Respondent no.1 has not fulfilled the conditions laid down in the Bye-laws and more particularly Bye-laws 67 and 21. Respondent no.1 has not complied the provisions of Form A (vi) (6A). In fact, even the earlier original member Dr.Abad was not eligible to become member of the petitioner-society as per Bye law no.14.

4. On the other hand, learned counsel for the respondents have supported the impugned orders. Mr. Rayrikar has taken me through the affidavit of Pratik Pokharkar made on behalf of respondents no.2 and 3 and submitted that no case is made out for invocation of powers under Article 227 of the Constitution of India.

5. I have considered the rival submissions advanced by the learned counsel appearing for the parties. I have also perused the material on record. A perusal of the order of the Deputy Registrar shows that Deputy Registrar observed that though by letter dated 13.3.2009 of Commissioner of Co-operation and Registrar of Co-operative Societies, Maharashtra State, Pune, all

the housing societies were informed to adopt the model Bye-laws, the Petitioner-society did not take the necessary steps. Deputy Registrar further observed that respondent no.1 has complied the formalities that are required for becoming member. Respondent no.1 has submitted application on 7.2.2011 in the prescribed form together with resignation of the original member, admission fee of Rs.100/-, transfer fee of Rs.25,000/-, transfer fee of Rs.500/-, additional shares cheque of Rs.250/- dated 20.1.2011. Despite that, the petitioner-society did not consider that application. Deputy Registrar further observed that as per the model Bye-law 17A, respondent no.1 cannot be termed or treated as ineligible to become a member.

6. A perusal of the order passed by the Divisional Joint Registrar shows that respondent no.1 has complied the formalities for becoming member. The authorities below also referred to circular dated 5.8.2001 and the model Bye laws. The authorities below concurrently found that respondent no.1 is eligible to become member of the petitioner-society and without any sufficient cause, the petitioner did not enroll respondent no.1 as a member.

7. Apart from that, Mr Chandrachud also invited my attention to the compliances made by the first respondent as set out in the affidavit and annexures thereto. In view thereof and for the reasons recorded by the authorities below, I do not find that any

case is made out for invocation of powers under Article 227 of the Constitution of India. The authorities below have concurrently found that respondent no.1 is eligible to become member of the petitioner- society. Hence, Petition fails and the same is dismissed.

(R.G.KETKAR, J.)