

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

WRIT PETITION NO.9741 OF 2017

Laxminarayan Shukla

.... Petitioner

versus

The State of Maharashtra & Ors.

... Respondents

.....

- Mrs.Preeti Walimbe, Advocate for the Petitioner.
- Ms.Kavita N. Solunke, AGP for the Respondents Nos.1 to 5.
- Mr.Yashwardhan Tiwari for the Intervener.
- Mr.Satish Devkate, Deputy Joint Registrar, Dombivali.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 12th OCTOBER, 2017.**

P.C. :

1. The above Petition has been filed seeking a direction that the Respondent No.4 be directed to comply with the communication dated 15/12/2016 and take steps to conduct election of the society in question i.e. Shankar Parvati Housing Society, MIDC, Dombivali (East), Dist-Thane, Thane. The holding of elections is sought interalia on the basis of averments made in the above Petition.

2. It is required to be noted that right from the inception, there is no Managing Committee as such in the society in question. Today there is an authorized officer appointed vide order dated 11/11/2016 and the said authorized officer is one Mrs. Nilima Waghmare, who is the Government Panel Auditor, possibly on the panel of the co-operative department. In so far as the said officer is concerned, her letter dated 05/12/2016 addressed to the Deputy Registrar Mr.Desai makes an interesting recording in the last paragraph of her said letter, she has stated that she does not have any previous experience of being an Administrator of a co-operative society and therefore she expects co-operation from the addressee of the said letter i.e. Deputy Registrar. Hence, the person appointed to be an Authorized Officer has herself stated that she has no previous experience of being an Administrator.
3. The society in question has myraid problems, which include the alleged non-payment of the maintenance charges,

contribution to the repair funds etc. The building, as can be seen from the photographs, does not appear to be in a sound condition. The members of the society seems belong to a strata, wherein they cannot afford any other accommodation.

4. Be that as it may be. We enquired from the learned AGP Mrs.Solunke, whether in the light of the said letter dated 05/12/2016, addressed by the present Authorized Officer, and considering the problems facing the society, whether the department would appoint any other person as the Authorized Officer to take charge of the society, so that day to day affairs of the society can be carried out and steps can be taken to see that, an elected body is put in place to manage affairs of the society. Upon this, the learned AGP on instructions of the Divisional Joint Registrar Mrs. Dr.Jyoti Ladkar stated that another Authorized Officer would be appointed in the place of the present Authorized Officer. We accept the said statement made by the learned AGP. We expect the new Authorized Officer would be appointed within one week from date.

5. It would be for the Authorized Officer, who would be appointed, to take steps to hold the elections of the Petitioner Society and if it is not possible to hold the elections, to give reasons and communicate the same to the members of the society by putting a notice on a conspicuous part of the building of the society. We also do not express any opinion as regards the steps to be taken, as regards the repairs to be carried out to the building, which we are sure would be considered by the Administrator, having regards to the exigencies of the situation.
6. With the observations as aforesaid the above Writ Petition is disposed of.
7. The parties to act upon the authenticated copy of this order duly authenticated by the Court Sheristedar.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)