

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

CIVIL APPLICATION NO. 2140 OF 2017
IN
WRIT PETITION (ST) NO.13575 OF 2017

Shree Hariyali Village Jain
Swatamber Murtipujak Trust ... Applicant

IN THE MATTER BETWEEN

Shree Hariyali Village Jain
Swatamber Murtipujak Trust ... Petitioner

Vs

Hazari Baug Co-op Society Ltd. & Ors. ... Respondents

WITH
WRIT PETITION NO. 6497 OF 2017

M/s. Manish Corporation ... Petitioner

Vs

Hazari Baug Co-op Society Ltd. & Ors. ... Respondents

...

Mr. G. S. Godbole i/b. Dipeshsiroya for the Applicant in
CAW/2140/17.

Mr. Vishal Kanade i/b. R.V. & Co. for Petitioner in WP/6497/17.

Mr. N. V. Walawalkar, Senior Advocate i/b. Tanaya Goswami for the
Respondent No. 1 in both petitions.

Ms. Vaishali Nimbalkar, AGP for the Respondent in Wpst/13575/17.

Ms. Jyoti Jadhav, AGP for the Respondent in WP/6497/17.

CORAM : M. S. SONAK, J.
DATE :28 SEPTEMBER, 2017

P.C. :

1. Mr. Walawalkar, learned senior counsel, who appears for Hajari Baug Co-op Society Ltd., which is impleaded as a respondent in both these petitions, on the basis of instructions from the society, makes a statement that the deemed conveyance already executed in favour of the society (which is already registered), will be subject to the registered lease deed dated 11th July 1984, in favour of Shree Hariyali Village Jain Swatamber Murtipujak Trust (Petitioner in Writ Petition (ST) No.13575/2017). This statement is recorded.

2. There are certain disputes between the parties in relation to their civil rights. The proceedings under the MOFA and for that matter the present petition, are not appropriate proceedings for resolution of such disputes. However, it is made clear that the orders impugned in these two petitions, will not, come in the way of the parties in asserting their respective rights, (if any) or seeking adjudication upon the same before the civil court or any other authority which will have jurisdiction in such matters. Therefore, applying the law laid down by the Division Bench of this Court in ***Zainul Abedin Yusufali Massawawala & Ors. V/s. The Competent Authority District Deputy Registrar of Co-operative Housing***

Societies, Mumbai & Ors. In Writ Petition No. 2163 of 2014 decided on 29th June 2016, it is made clear that nothing in the impugned order will come in the way of any of the parties in taking out appropriate proceedings before the appropriate forum to assert or enforce their civil rights, if any.

3. In view of the aforesaid statement and clarification, these petitions are disposed of. Civil Application would not survive and same is also disposed of.

(M. S. SONAK, J.)