

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

CONTEMPT PETITION STAMP NO.29268 OF 2016

Mrs. Sharukh Sultan and others

..Petitioners

Versus

**S. H. More,
designated election officer,
Maharashtra Housing and Area Development
and others**

..Respondents

**Mr. M. M. Vashi, Senior Advocate i/by Solicis Lex for the Petitioners.
Mrs. V. S. Nimbalkar, AGP for the Respondents.**

**CORAM : R. M. SAVANT, J.
DATE : 9th JANUARY, 2017**

PC.

1 The Contempt alleged is of the order dated 15.10.2016 passed by a Learned Single Judge of this Court in Writ Petition No.11910 of 2016. In the said order, the statement made by the Learned AGP to the effect that the elections are not due on 16.10.2016 and that till today they have not declared the elections was recorded. In view thereof, the Learned Judge has observed that he did not find any urgency in the said Writ Petition. The Petitioners are the flat purchasers in the building of the society known as Oshivara Krishna CHS Ltd. It seems that the said society is a constituent society of a federation known as Oshivara Mhada Gaodevi Complex Co-operative Housing Association Ltd.

2 Apart from the Petitioners it seems that there are four other societies which are the constituents of the said federation. It appears that there was some litigation in this Court as regards the federation and in the said litigation issue of the elections to the federation cropped up. A Learned Single Judge of this Court (S. J. Kathawalla, J) passed an order directing the elections to be held to the said federation i.e. Oshivara Mhada Gaodevi Complex Co-operative Association Ltd. It appears that the tenure of the managing committee of the Oshivara Krishna CHS Ltd. had also come to an end. However the process of holding the elections has not commenced. It appears that for the purposes of holding elections to the federation, the list of the members of the constituent societies was published. It appears that the names of the Petitioners above named were not appearing in the said provisional list of voters. The Petitioners directly approached this Court on the ground that the elections were to be held on 16.10.2016. It is required to be noted that the non-inclusion of the names of the Petitioners was challenged inter-alia on the grounds mentioned in the Writ Petition.

3 As indicated above, in the Writ Petition, a statement came to be made by the Learned AGP appearing on behalf of the authorities of the Co-operative Department that no elections are due on 16.10.2016 and they have not declared the election. An affidavit in reply has now been

filed to the above Petition and it has been stated in the said affidavit in reply that a Returning Officer has been appointed for the Oshivara Krishna CHS Ltd. and not the federation. The Respondents are maintaining the stand that the elections were to the federation and not to the Oshivara Krishna CHS Ltd. i.e. the constituent society of which the Petitioners are the residents. It seems that the elections took place to the federation on 16.10.2016 in which elections the two representatives of the constituent societies were elected.

4 The contempt alleged is on the ground that in holding the said elections, the Respondents have breached and violated the statement as recorded in the said order dated 15.10.2016 passed in the above Petition. In so far as the elections to the federation are concerned, the Petitioners have filed a dispute under Section 91 of the Co-operative Societies Act, in which dispute they had filed an application for interim reliefs for restraining the office bearers of the federation from discharging their duties as such. The said application for interim relief was rejected by the Co-operative Court. The Petitioners thereafter filed an Appeal which has also been dismissed. In my view, having regard to the aforesaid facts as also having regard to the fact that the statement made by the Learned AGP was in respect of the elections to the Oshivara Krishna CHS Ltd. and not the federation, no case for exercise of the contempt

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jurisdiction is made out. The Contempt Petition is accordingly dismissed.

5 However, it is made clear that the dispute filed by the
Petitioners in respect of the elections to the federation would be tried on
its own merits and in accordance with law without being influenced by
the dismissal of the Contempt Petition.

[R.M.SAVANT, J]