

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12373 OF 2017

Motiram Pawar	 Petitioner
V/s.	
Nav Maharashtra Nagar Co-operative Housing Society & Anr.	 Respondents

Ms. Leena Patil for the Petitioner.

Mr. T.D. Deshmukh for the Respondents.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 12TH DECEMBER 2017.

P.C. :

1. Heard Ms. Patil, learned counsel for the Petitioner, and Mr. Deshmukh, learned counsel for the Respondents.

2. By this Petition, the Petitioner is challenging order dated 12th October 2017 passed by the Maharashtra State Co-operative Appellate Court, Mumbai, in Appeal No.90 of 2017. The said Appeal was preferred by the Petitioner herein challenging the order passed below "Exhibit-5" in Dispute No.39 of 2017 on 22nd June 2017 by the Co-operative Court No.2, Mumbai, thereby granting interim injunction against the present Petitioner. After considering the submissions advanced by the parties

and parties coming to certain terms, as reflected in paragraph Nos.13 and 14 of its order, the learned Appellate Court was pleased to dismiss the Appeal.

3. Without entering into the rival contentions, which might have been raised by the parties before the Trial Court and the Appellate Court, the perusal of the observations made by the Appellate Court in paragraph Nos.13 and 14 of its order are sufficient for disposal of this Writ Petition, as they take care of the interest not only of the Petitioner but also of the Respondents. Those observations are as follows :-

“13. During the course of arguments, the learned counsel for the Society has submitted that the Society is ready to give the documents i.e. relevant plans and permissions to the appellant and the opponent No.2 will also give schedule period of extension work of his flat before entering in the flat of the appellant for carrying the work. The opponent No.2 by way of letter dated 16/5/2015 already showed its willingness to pay hardship compensation of Rs.2,30,000/- to each of the members of the society. By way of his say, the appellant, in short, contended that he has no objection if the society has paid an amount of Rs.2,30,000/- as hardship compensation and provided time schedule of work to him.

14. The opponents are ready to comply the said demands of the appellant such as providing necessary compensation amount of Rs.2,30,000/- and necessary documents i.e.

plans and permissions etc. to the appellant. In such circumstances, the order passed by the learned Co-operative Court, if continued, no harm would be caused to the appellant. The disputant has taken effective steps for carrying out additional construction including the flat of appellant. If the work is stopped, the majority of the members would suffer loss in terms of additional area and compensation cost.”

4. In view thereof, there is no ground made out to set aside the order passed by the Co-operative Court, which is confirmed by the Appellate Court. The Writ Petition, therefore, holds no merits; hence, stands dismissed.

DR. SHALINI PHANSALKAR-JOSHI, J.]