

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 954 OF 2017**

**WITH**

**WRIT PETITION NO. 955 OF 2017**

Mr. Nityam Khosla and Aarti K. Khosla ] Petitioners

Vs.

Quantum Park Co.op. Hsg. Soc. Ltd. & Ors. ] Respondents

**WITH**

**WRIT PETITION NO. 956 OF 2017**

**WITH**

**WRIT PETITION NO. 957 OF 2017**

**WITH**

**WRIT PETITION NO. 959 OF 2017**

M/s. Ace Housing and Construction Ltd. ] Petitioner

Vs.

Quantum Park Co.op. Hsg. Soc. Ltd. & Ors. ] Respondents

**WITH**

**WRIT PETITION NO. 961 OF 2017**

Chhaya Ravjiyani and Shekhar H. Ravjiyani ] Petitioners

Vs.

Quantum Park Co.op. Hsg. Soc. Ltd. & Ors. ] Respondents

**WITH**

**WRIT PETITION NO. 963 OF 2017**

**WITH**

**WRIT PETITION NO. 964 OF 2017**

**WITH**

**WRIT PETITION NO. 965 OF 2017**

**WITH**

**WRIT PETITION NO. 967 OF 2017**

**WITH**

**WRIT PETITION NO. 968 OF 2017**

**WITH**

**WRIT PETITION NO. 969 OF 2017**

**WITH**

|                                           |   |             |
|-------------------------------------------|---|-------------|
| M/s. Ace Housing and Construction Ltd.    | ] | Petitioner  |
| Vs.                                       |   |             |
| Quantum Park Co.op. Hsg. Soc. Ltd. & Ors. | ] | Respondents |
| WITH                                      |   |             |
| <b>WRIT PETITION NO. 973 OF 2017</b>      |   |             |
| Smt. Aarti Khosla & Anr.                  | ] | Petitioner  |
| Vs.                                       |   |             |
| Quantum Park Co.op. Hsg. Soc. Ltd. & Ors. | ] | Respondents |
| WITH                                      |   |             |
| <b>WRIT PETITION NO. 974 OF 2017</b>      |   |             |
| Shekhar Ravjiani                          | ] | Petitioner  |
| Vs.                                       |   |             |
| Quantum Park Co.op. Hsg. Soc. Ltd. & Ors. | ] | Respondents |

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Mr. Prashant P. Kulkarni a/w A.B. Desai, for petitioner in all Petitions.

Mr. Astad Randeria a/w Ms. Manasee Mulekar i/b M/s. Kanga & Co., for respondent No.1.

Ms. Naira Jeejebhoy i/b Bachubhai Munim and Co., for respondent No.2.

Mr. Kedar Dighe, A.G.P in W.P. 954 of 2017 and W.P. No. 965 of 2017 for respondents No. 4 and 5-State.

Mr. Sukanta Karmakar, A.G.P in Writ Petition No. 973 of 2017 and Writ Petition No. 961 of 2017 for respondents No. 4 and 5-State.

Mr. U.S. Upadhyay, A.G.P in W.P. No. 972 of 2017 and W.P. No. 955 of 2017 for respondents No. 4 and 5-State.

Mr. Hemant Haryan, A.G.P in W.P. No. 963 of 2017 and W.P. No. 964 of 2017 for respondents No. 4 and 5-State.

Ms. Jyoti Chavan, A.G.P in W.P. No. 957 of 2017 and W.P. No. 969 of 2017 for respondents No. 4 and 5-State.

Mr. Shamrao Gona, A.G.P in W.P. No. 970 of 2017 and W.P. No. 959 of 2017 for respondents No. 4 and 5-State.

Mr. Manish Upadhye, A.G.P in W.P. No. 967 of 2017 and W.P. No. 956 of 2017 for respondents No. 4 and 5-State.

Mr. Sanjay Karale, Co-operative Officer, Grade-II, present.

**CORAM : R.G. KETKAR, J.**

**DATE : 29TH JUNE, 2017.**

**P.C.**

Heard Mr. Kulkarni, learned Counsel for the petitioner in all Petitions, Mr. Randeria, learned Counsel for respondent No.1, Ms. Jeejebhoy, learned Counsel for respondent No.2, Mr. Dighe, learned A.G.P for respondents No.4 and 5 in Writ Petition No. 954 of 2017 and Writ Petition No. 965 of 2017, Mr. Karmakar, learned A.G.P for respondents No. 4 and 5 in Writ Petition No. 973 of 2017 and Writ Petition No. 961 of 2017, Mr. Upadhyay, learned A.G.P, for respondents No. 4 and 5 in Writ Petition No. 972 of 2017 and Writ Petition No. 955 of 2017, Mr. Haryan, learned A.G.P in Writ Petition No. 963 of 2017 and Writ Petition No. 964 of 2017, Ms. Chavan, learned A.G.P for respondents No.4 and 5 in Writ Petition No. 957 of 2017 and Writ Petition No. 969 of 2017 and Mr. Gona, learned A.G.P for respondents No. 4 and 5 in Writ Petition No. 970 of 2017 and Writ Petition No. 959 of 2017 and Mr. Upadhye, learned A.G.P, for respondents No. 4 and 5 in Writ Petition No. 967 of 2017 and Writ Petition No. 956 of 2017. Rule. Learned Counsel for the respondents waive service. By consent of the parties, Rule is made returnable forthwith and the Petitions are taken for final hearing.

2. By these Petitions under Article 226 of the Constitution of India, the petitioners have challenged the order dated 28<sup>th</sup> September, 2016 as also order dated 16<sup>th</sup> February, 2017 passed by the Divisional Joint Registrar, Mumbai Division, Mumbai. By order

dated 17<sup>th</sup> October, 2016, Divisional Joint Registrar granted stay to the orders dated 26<sup>th</sup> August, 2016 passed by Deputy Registrar Co-operative Societies, H-W Ward, Mumbai. By order dated 16<sup>th</sup> February, 2017, Divisional Joint Registrar allowed the applications for amendment made for amending Revision Applications.

3. Mr. Kulkarni makes a statement that petitioners in Writ Petition [L] No. 927 of 2017, Writ Petition [L] No. 928 of 2017, Writ Petition [L] No. 929 of 2017, Writ Petition [L] No. 930 of 2017, Writ Petition [L] No. 931 of 2017, Writ Petition [L] No. 932 of 2017, Writ Petition [L] No. 933 of 2017, Writ Petition [L] No. 935 of 2017, Writ Petition [L] No. 936 of 2017, Writ Petition [L] No. 937 of 2017, Writ Petition [L] No. 939 of 2017, Writ Petition [L] No. 943 of 2017 and Writ Petition [L] No. 944 of 2017 are in possession of the respective flats. They have not created third party interest and pending Revision Applications they will neither part with possession nor create third party interest. Statements made on instructions by Mr. Kulkarni are accepted. Mr. Kulkarni further states that petitioners in Writ Petition [L] No. 940 of 2017, Writ Petition [L] No. 941 of 2017 and Writ Petition [L] No. 945 of 2017 have transferred flats in favour of Danishmand Merchant, Director of M/s. Ace Housing and Construction Ltd. Upon taking instructions from him, Mr. Kulkarni states that Danishmand Merchant is in possession and he will neither part with possession nor create third party interest in respect of flats in these Petitions, pending the Revision Applications. Statements on instructions made by Mr. Kulkarni are accepted.

4. By consent of the parties, orders dated 28<sup>th</sup> September, 2016 granting stay to the orders dated 26<sup>th</sup> August, 2016 passed by the Deputy Registrar, Co-operative Societies, H/W Ward, Mumbai are set aside. Applications for stay stand disposed of. accordingly. By way of abundant caution, it is clarified that this Court has not set aside orders dated 16<sup>th</sup> February, 2017 allowing amendment applications. The parties agree that they will appear before the Divisional Joint Registrar on 13<sup>th</sup> July, 2017 at 11.00 a.m and for that purpose no fresh notice be issued to them.

5. In view thereof, Petitions are disposed of in following terms:

- [1] Orders dated 28<sup>th</sup> September, 2016 granting stay to the orders dated 26<sup>th</sup> August, 2016 are set aside.
- [2] Orders dated 16<sup>th</sup> February, 2017 allowing amendment applications are maintained.
- [3] Parties agree that they will appear before the Divisional Joint Registrar on 13<sup>th</sup> July, 2017 and for that purpose, no fresh notice be issued to them.
- [4] Divisional Joint Registrar Co-operative Societies, H/W Ward, Mumbai is requested to dispose of Revision Applications within three weeks from the date of appearance of the parties.
- [5] All the contentions of the parties on merits are expressly kept open.

Rule is made absolute in above terms with no order as to costs.

**[R.G. KETKAR, J.]**