

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1849 OF 2017

Sudhir Diwan

...Petitioner

Versus

State of Maharashtra & Ors

...Respondents

Mr Sudhir Diwan, *Petitioner in person present.*

Mr Himanshu Takke, *AGP for State/Respondent No.1.*

Mr KM John, *for Respondents Nos.3, 5 to 10.*

CORAM: G.S. PATEL, J

DATED: 31st October 2017

PC:-

1. The Petition seeks an order under Article 227. It ought to have been framed as an application, but I will allow that to pass.

2. The challenge is to an order dated 18th April 2017 of the Co-operative Appellate Court. It is wrongly stated that the Petitioner's Application for interim relief was rejected. In fact, although the Application was initially rejected by the 1st Co-operative Court, the Petitioner's Appeal was partly allowed as can be seen from page 44. It is to be noted that in the application for interim relief, prayer clause (c) sought to restrain the Opponents from drawing from society funds for their defence of criminal cases filed by the Petitioner. The Appellate Court declined to grant relief in this

regard. Paragraph 16 of the impugned order said that while it is true that process has been issued, the order issuing process is under challenge; it is too early to say whether any case of commission of an offence is made out or whether the acts alleged to have been done by the Opponents were in their personal capacity or official capacity. The Writ Petitioner today insists that it is irrelevant that the criminal proceedings are as yet pending. His allegations, he says, should be sufficient. These proceedings, he says, will take a long time. He therefore demands an immediate restraint against the opponents from using society funds and, to that extent, a reversal of the impugned order.

3. This is no ground for interference. The view taken by the Member of the State Co-operative Appellate Court is absolutely correct, and unexceptionable. There is no merit in the Writ Petition. It is rejected. It is however sufficient to leave open all contentions on both sides for appropriate proceedings at an apposite time.

(G. S. PATEL, J.)