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

WRIT PETITION (STAMP) NO.4851 OF 2017

|                                                                            |               |
|----------------------------------------------------------------------------|---------------|
| Dilip Laxman Dawre                                                         | ..Petitioner  |
| Versus                                                                     |               |
| Charkop Siddhiyog Co-op. Housing Society<br>Through its Secretary & Others | ..Respondents |

WITH  
WRIT PETITION (STAMP) NO.4852 OF 2017

|                                                                            |               |
|----------------------------------------------------------------------------|---------------|
| Suresh Keshave Patade                                                      | ..Petitioner  |
| Versus                                                                     |               |
| Charkop Siddhiyog Co-op. Housing Society<br>Through its Secretary & Others | ..Respondents |

Mr.Rajshekhar Govilkar, for Petitioners in both the Petitions.  
Mr.Shreepad Murthy alongwith Rima Oke i/by Abhishek Patil for the  
Respondent No.1 in both the Petitions.  
Mr.S.D. Rayarikar, AGP for the Respondent No.2 in both the Petitions.  
Mr.Suresh Patade is present in person.

**CORAM : REVATI MOHITE DERE, J.**

**DATED : 29<sup>th</sup> OCTOBER 2018**

**P.C.:**

. Heard learned counsel for the parties.

1] On several occasions, the matter was adjourned to enable the parties to resolve their dispute amicably having regard to the nature of dispute i.e. between the members of the Society. The committee members of the

Respondent No.1-Society and the Petitioners have amicably resolved and settled the dispute. The Petitioner in each of the Petitions has tendered their 'Undertaking in the shape of an Affidavit'. The said Undertakings are taken on record and marked as 'X' and 'X-1' for identification.

2] The Petitioner-Dilip Dawre in Writ Petition No.4851 of 2017 has solemnly affirmed and agreed that an amount of Rs.9,49,295/- under the Recovery Certificate dated 16<sup>th</sup> May 2011 alongwith lump sum interest thereon, of Rs.10,25,238/- for a period of 9 years, totaling Rs.19,74,533/- is due to the Respondent No.1-Society.

3] The Petitioner-Suresh Patade in Writ Petition No.4852 of 2017 has also solemnly affirmed and agreed that an amount of Rs.8,30,849/- under the Recovery Certificate dated 16<sup>th</sup> May 2011 alongwith lump sum interest thereon, of Rs.9,03,796/- for a period of 9 years, totaling Rs.17,34,645/- is due to the Respondent No.1-Society.

4] Both the Petitioners in their respective Undertaking have stated the amounts paid by them so far, pursuant to the interim orders passed by this Court. The Petitioners in both the Petitions have also issued post-dated cheques to the Respondent No.1-Society, details of which have been stated

in para no.4 of the Undertaking filed by each of the Petitioner. Both the Petitioners have undertaken to this Court that the post-dated cheques issued by them will be honoured on the dates mentioned in their respective Undertakings. The Petitioners, have, further undertaken to comply with the payments without committing any default. On the Petitioners making the entire payment as mentioned in the Undertakings, the auction sale fixed shall stand cancelled and the society's claim shall stand settled.

5] Learned counsel for the Respondent No.1 on instructions accepts the Undertakings in the shape of Affidavits given by the Petitioners, as well as the post-dated cheques, in view of the amicable settlement between the parties. Due to the long standing dispute and the amicable settlement between the parties, the interest quantified is a lump sum interest on the principal amount. The Undertaking given by each of the Petitioner is accepted as an Undertaking to the Court.

6] Having regard to the peculiar facts of the case, in the interest of justice, the Petitioner in each of the Petitions is directed to pay costs of Rs.25,000/- to the Respondent No.1-Society, directly on or before 15<sup>th</sup> October 2019.

7] Both the Petitions are disposed off in terms of the Undertakings in the shape of Affidavits as aforesaid given by each of the Petitioner..

8] Needless to state, that once the amounts as mentioned in the Undertakings are paid, the Society will not raise any further claim in respect of the amounts claimed under the Recovery Certificate.

All concerned to act on the authenticated copy of this order.

**(REVATI MOHITE DERE, J.)**