

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

**WRIT PETITION No.3565 OF 2003**

N.G. Builders and Developers

... Petitioner

Versus

Swagat Narinder Park Cooperative Hsg. Society ... Respondent

.....

Mr.C.P. Deogirikar for the Petitioner.

.....

**CORAM: MRS.MRIDULA BHATKAR, J.  
DATED: JULY 13, 2018**

**P.C. :**

1. In this Writ Petition, the order dated 14<sup>th</sup> March, 2001 passed by the 2nd Joint Civil Judge, Senior Division, Thane below Exhibit 14 in S.C. Suit No. 392 of 1999 and order below Exhibit 17 in S.C. Suit No. 395 of 1999, which was confirmed by the order dated 12<sup>th</sup> July, 2002 passed by the 3<sup>rd</sup> Addl. District Judge, Thane in Miscellaneous Civil Appeal No. 175 of 2001 thereby holding that the Civil Court has no jurisdiction over the subject matter, is challenged.

2. The learned Counsel for the petitioner points out that the suit is covered under Section 10 of the Maharashtra Ownership Flats

(Regulation of the promotion of construction, sale, management and transfer) Act, 1963, as the builder/developers has taken steps under the said Act. He submits that the trial Court has erroneously held that the issue is touching the business of the society and covered under Section 91 of the Maharashtra Co-operative Societies Act, 1960. He further points out that this order was passed after framing preliminary issues under Section 9A of the Code of Civil Procedure, 1908.

3. In view of the Maharashtra Ordinance No. XVIII of 2018 dated 27<sup>th</sup> June, 2018, saving clause 3 (2) and proviso thereto, this Petition abates and is disposed of as abated. If there is any other issue under Order 14 or any application under Order 7 Rule 11, the Court can proceed and decide.

4. It is made clear that pursuant to the Ordinance, if there is no enactment, then the learned Counsel for the petitioner is at liberty to move this Court for recall of this order.

5. Writ Petition is disposed of as such.

**(MRIDULA BHATKAR, J.)**