

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

WRIT PETITION (ST) NO. 19648 OF 2018

Mr. Avinash Chandraa Jolly ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19672 OF 2018

Mr. Sukhbinder Singh ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19677 OF 2018

Mrs. Kunal Devare ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19678 OF 2018

Mr. Sagar Bhanushali ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19682 OF 2018

Mr. Akbar Ali Farooq ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19684 OF 2018

Mrs. Mandakini Bangale ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19686 OF 2018

Mr. Dev Singh Matharu ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19688 OF 2018

Mr. Pramod Dange ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19689 OF 2018

Mr. Devendra Shelar ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

WITH

WRIT PETITION (ST) NO. 19692 OF 2018

Mr. Rahul Ruia ... Petitioner

Versus

Smt. J.A. Nikam and others ... Respondents

Mr. Nikunj Mehta alongwith Mr. Inderpal Singh and Mr. Asad Ali M. instructed by Karikeya & Associates for the Petitioner in all the above Writ Petitions.

Mr. Manoj Prajapati instructed by Mr. Rushil Mehta for Respondent No.2 in all the above Writ Petitions.

Mr. P.G. Sawant, AGP, for Respondent No.3 in all the above Writ Petitions.

CORAM : S.J. KATHAWALLA, J.

DATED : 14th JULY, 2018

(In Chambers)

P.C.:

1. Rule.
2. Respondents waive service and by consent, the above Writ Petitions are taken up for final hearing.
3. By the above Writ Petitions, the Petitioners have impugned the decision of the Returning Officer / Respondent No.1, rejecting the nominations received from the Petitioners to contest the elections of the Managing Committee of the Society to be held on Sunday, 15th July, 2018 from 10.00 a.m. onwards. The nominations are rejected on the ground that bye-law 117(f) is not complied with by the Petitioners. The said bye-law reads as under :-

“117(f) : he/she has without previous intimation in writing has sublet his/her flat or part thereof given it on leave and license or care taker basis or has parted with its possession in any other manner or has sold his shares and interest in the society.”

4. Admittedly, the Petitioners have not intimated to the Society in writing that they have sublet the premises to third parties. The Petitioners state that they had given intimation to the co-promoter about the same. Since bye-laws of a Society are framed and made applicable upon its formation, the intimation forwarded to the co-promoter prior to the formation of the Society does not assist the

Petitioners in any manner. In view thereof, the Returning Officer/Respondent No.1 is justified in rejecting the nominations of the above Petitioners. In view thereof, Rule is discharged and the above Writ Petitions are disposed off.

5. All concerned to act on an ordinary copy of this order duly authenticated by the Associate/Sheristedar/Personal Assistant of this Court.

(S.J.KATHAWALLA, J.)