

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Review Petition (ST) NO. 16405 OF 2017
IN
Writ Petition No.879 OF 2015

Ashoka Hind Co-operative Housing
Society Limited ...Petitioner

Versus

The Divisional Joint Registrar,
Co-op. Societies, Mumbai Division And Ors ...Respondents

WITH
Review Petition (ST) NO. 16409 OF 2017
IN
Writ Petition No.889 OF 2015

WITH
Review Petition (ST) NO. 26050 OF 2017
IN
Writ Petition NO. 886 OF 2015

WITH
Review Petition (ST) NO. 26040 OF 2017
In
Writ Petition NO. 882 OF 2015

WITH
Review Petition (ST) NO. 26043 OF 2017
IN
Writ Petition NO. 888 OF 2015

WITH
Review Petition (ST) NO. 26048 OF 2017
IN
Writ Petition NO.881 OF 2015

WITH
Review Petition (ST) NO. 26065 OF 2017
IN
Writ Petition NO.2716 OF 2014

....
Mr. Dhiraj Gole i/b. Umeshchandra Yadav Patil, Advocate for the applicants.

Mr. Sachin Kankal, AGP, for the Respondent – State.

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CORAM : R. G. KETKAR, J.

DATE : 15th FEBRUARY, 2018

[IN CHAMBER AT 2:35 P.M.]

P.C.

1. Heard Mr.Dhiraj Gole, learned Counsel for the petitioners and Mr.Sachin Kankal, learned A.G.P for the respondent – State. Review Petitions (St.) No.26048/2017 & 26065 OF 2017 are not on board. As connected Review Petitions are on today's board, by consent of parties, same are also taken on board.

2. By these Petitions under Section 114 read with Ord'r XLVII Rule 1 of Code of Civil Procedure, 1908 (for short, 'C.P.C.'), the petitioners have sought review of the order dated 5.4.2017 passed in the Writ Petitions instituted by the petitioners herein. By that order, the petitions instituted by the petitioners challenging the order dated 28.3.2012 passed by respondent No.2 Deputy Registrar of Co-operative Societies, H-West Ward, Mumbai in Appeal No.19/2011 as also the judgment and order dated 28.10.2013 passed by respondent No.1, Divisional Joint Registrar, Co-operative Societies, Mumbai Division in Revision Application NO.318/2012, were dismissed. By order dated 28.3.2012, respondent No.2 allowed the appeal preferred by

respondents No.3 and 4 and directed the petitioner society to enroll respondents No.3 and 4 as members of the society by issuing the share certificate. By order dated 28.10.2013, respondent No.1 Divisional Joint Registrar dismissed the Revision Application preferred by the petitioner society.

3. In support of these Petitions, Mr. Gole strenuously contended that the order under review suffers from several errors of law apparent on the face of record. He submitted that the appeal preferred by respondents No.3 and 4 was clearly barred by limitation. They did not file applications for condonation of delay. In other words, the order passed in appeal is without jurisdiction as it was clearly time barred.

4. It is not possible to accept this submission. A perusal of paragraph-9 of the order under review shows that this contentions was specifically dealt with after considering the submissions advanced on behalf of the respondents that the appeal was preferred by respondents No.3 and 4 against the communication dated 15.7.2011. In view thereof, I do not find any merit in the submission that the appeal preferred by respondents No.3 and 4 was barred by limitation.

5. Mr. Gole submitted that in any case, respondents No.3 & 4 were not qualified to be enrolled as members. I do not find any merit in this submission as well.

6. It was brought to my notice that the persons who were similarly situated, namely, in Revision Application No.315/2012, 316/2012 and 324/2012 were enrolled as members. It was also recorded in the order that respondents No.3 and 4 are paying maintenance charges regularly and they are not in arrears. It was also found that the petitioners were not in a position to demonstrate that respondents No.3 and 4 were not qualified to become members. In view thereof, I do not find any merit in this submission.

7. Hence, Review Petitions fail and the same are dismissed. Order accordingly.

(R.G. Ketkar, J.)