

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 7537 OF 2016****ALONGWITH****WRIT PETITION NO. 7538 OF 2016****ALONGWITH****WRIT PETITION NO. 11968 OF 2018****ALONGWITH****WRIT PETITION (ST) NO. 26514 OF 2016****Premchand Champalal Kothari & Ors.****..... Petitioners****VERSUS****The Bharat Building Company & Ors.****..... Respondents****ALONGWITH****WRIT PETITION NO. 7539 OF 2016****ALONGWITH****WRIT PETITION NO. 7540 OF 2016****ALONGWITH****WRIT PETITION NO. 11969 OF 2018****ALONGWITH****WRIT PETITION (ST)NO. 26513 OF 2018****Kantilal Champalal Kothari & Ors.****..... Petitioners****VERSUS****The Bharat Building Company & Ors.****..... Respondents**

Mr.Chetan Kapadia, a/w. Mr.Astad Randeria, Mr.Sheelang Shah, Mr.Rajesh Satpalkar, i/b. M/s.Mulla & Mulla & Craigie Blunt & Caroe for the Petitioners in WP/7537/2016, WP/7540/2016, WPST/26513/2018, WPST/26514/2018, WP/11968/2018, WP/11969/2018.

Mr.Yatin R. Shah for the Respondent no.3 in WP/7537/2016, WP/7540/2016, WPST/26513/2018, WPST/26514/2018, WP/11968/2018, WP/11969/2018.

Ms.Aneeta M. Vasani for the Respondent nos. 1 and 2 in WP/7537/2016, WP/7540/2016, WPST/26513/2018,

WPST/26514/2018, WP/11968/2018, WP/11969/2018.

CORAM : R.D. DHANUKA, J.

DATE : 22nd OCTOBER, 2018

P.C.

By consent of learned counsel for the parties, the following order is passed :-

(a) It is clarified that the issues framed on 9th June, 2016 by the learned trial judge i.e. issue of jurisdiction and whether the suit was bad against defendant no.4 for non compliance of the provisions of section 164 of the Maharashtra Co-operative Societies Act, 1960 shall be tried along with all other issues under Order 14 Rule 2 of the Code of Civil Procedure, 1908 after giving opportunity to all the parties to lead documentary as well as oral evidence in the matter expeditiously.

(b) In view of this clarification granted in view of the no objection of the parties to the proceedings, the subsequent order passed by the learned trial judge on 28th June, 2016 rejecting the application filed by the plaintiff for granting leave to adduce evidence on preliminary issue is also consequently set aside.

(c) It is made clear that not only the plaintiff but all the parties to the suit would be at liberty to adduce the evidence on the said issues framed by the learned trial

judge on 9th June, 2016 along with all other issues.

(d) Hearing of the suit is expedited.

(e) Since the suit is of the year 1973, the learned trial judge shall make an endeavour to dispose of the said suit within six months from the date of communication of this order and shall not grant any unnecessary adjournment to any of the parties. If any of the parties does not co-operate with the learned trial judge, the conduct of such party shall be highlighted in the order and judgment that may be passed by the learned trial judge.

(f) It is made clear that this court has not expressed any views on the merits of the matter.

(g) All contentions of all the parties are kept open.

2. The above writ petitions are disposed of in the aforesaid terms.
No order as to costs.

3. The parties as well as the trial court to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]

**Kanchan
Vinod
Mayekar**

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