

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 12798 OF 2018

Vijay T. Pamnani and others.	]	Petitioners
Vs.		
The Deputy Registrar C.S. G/South Ward	]	
and others.	]	Respondents

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Mr. Raj Patel a/w Sayeed Mulani i/b Mulani & Co., for Petitioners.
Mr. S.H. Kankal, A.G.P, for Respondents No.1 and 5.
Mr. R.V. Govilkar i/b Govilkar & Co., for Respondent No.4.

WRIT PETITION NO. 12799 OF 2018

Jiwan Niwas CHS Ltd.	]	Petitioners
Vs.		
The Deputy Registrar C.S. G/South Ward	]	
and others.	]	Respondents

.....

Mr. Raj Patel a/w Sayeed Mulani i/b Mulani & Co., for Petitioners.
Mr. S.H. Kankal, A.G.P, for Respondents No.1, 2 and 4.
Mr. R.V. Govilkar i/b Govilkar & Co., for Respondent No.3.

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CORAM : R.G. KETKAR, J.

DATE: 27TH NOVEMBER, 2018.

P.C.

Heard Mr. Patel, learned Counsel for the petitioners in both the Petitions, Mr. Kankal, learned A.G.P, for respondents No.1 and 5 in Writ Petition No.12798 of 2018 and for respondents No.1,2 and 4 in Writ Petition No.12799 of 2018, Mr. Govilkar, learned Counsel for respondent No.4 in Writ Petition No.12798 of 2018 and respondent No.3 in Writ Petition No.12799 of 2018 at length.

2. Mr. Patel submits that respondent No.3-Society in W.P No.12798 of 2018 is supporting the petitioners and, therefore, no notice be issued to it. In so far as respondent No.2 is concerned, he orally seeks leave to delete respondent No.2 on the ground that he is a formal party and no relief is claimed against him. Leave as prayed for is granted. Amendment shall be carried out forthwith.

3. Rule. Mr. Kankal waives service on behalf of respondents No.1 and 5 in Writ Petition No.12798 of 2018 and respondents No.1,2 and 4 in Writ Petition No.12799 of 2018. Mr. Govilkar waives service on behalf of respondent No.4 in Writ Petition No.12798 of 2018 and respondent No.3 in Writ Petition No.12799 of 2018. In view of the narrow controversy raised in these Petitions as also at the request and by consent of learned Counsel for the parties, Rule is made returnable forthwith and the Petitions are taken up for final hearing.

4. Writ Petition No.12798 of 2018 takes exception to the order dated 22nd November, 2017 passed by Deputy Registrar Co-operative Societies, G-S Division, Mumbai as also the order dated 12th October, 2018 passed by the Divisional Joint Registrar Co-operative Societies Mumbai Division, Mumbai. By these orders, the Authorities below disqualified the Chairman, Secretary and the entire Managing Committee of the 3rd respondent/Society to continue as members of the Managing committee for the remaining period. The Authorities below also appointed 2nd respondent as Certified Auditor as an Authorized Officer for a period of six months and take custody of the record of the society and submit the report.

5. Writ Petition No.12799 of 2018 takes exception to the order dated 14th September, 2017 passed by Deputy Registrar Co-operative Societies, G.-S

Division, Mumbai as also order dated 12th October, 2018 passed by the Divisional Joint Registrar Co-operative Societies Mumbai Division, Mumbai. By these orders, in exercise of powers under section 79 (2) of the Maharashtra Co-operative Societies Act, 1960 (for short 'Act'), the Authorities have appointed respondent No.2 as Authorized Officer for furnishing information sought by the 3rd respondent herein under Right to Information Act, 2005. It was further made clear that if the Society does not extend co-operation then Office bearers of the Society will be liable to be disqualified as per section 79 (3) and 73 C A of the Act.

6. The Petitions were heard for quite some time and upon taking instructions from respondent No.4 in Writ Petition No.12798 of 2018 and respondent No.3 in Writ Petition No.12799 of 2018 who is present in the Court, Mr. Govilkar submits that the impugned orders may be set aside and the matters before the Deputy Registrar may be restored for deciding afresh.

7. In view thereof, by consent of the petitioners and respondent No.4 in Writ Petition No.12798 of 2018 and respondent No.3 in Writ Petition No.12799 of 2018-Mr. Bhupendra Pamnani, impugned orders are set aside. The parties agree that they will appear before the Deputy Registrar on 3rd December, 2018 and for that purpose no fresh notice be issued to them. The Deputy Registrar Co-operative Societies will fix the suitable date and will pass the order afresh and in accordance with law after giving opportunity of hearing to both the sides. Said exercise be done as expeditiously as possible and within 8 weeks from fixing the suitable date of hearing. All contentions of the parties on merits are expressly kept open. Rule is made absolute in the aforesaid terms with no order as to costs.

[R.G. KETKAR, J.]