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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION NO. 2096 OF 2017**

Sandeep Deorukhkar

... Petitioner

vs.

The Ld. District Dy. Registrar

... Respondent

Mumbai and 3 Ors.

Mr. Robin Thomas for the Petitioner.

Mr. Nitin Gangal a/w. Ms. Namita Mestry for Respondent no. 3.

Mr. Milind More, Addl. G. P. for Respondent no. 1, 2 and 4.

**CORAM : A.K. MENON, J.**

**DATE : 14<sup>th</sup> AUGUST, 2018**

**P. C.**

1. By this writ petition the petitioner challenges an order dated 28<sup>th</sup> December, 2016 passed by respondent no. 1 whereby a Revision Application no. 19/2016 filed against order dated 12<sup>th</sup> October, 2015 came to be dismissed. The application pertains to action to be initiated under section 101 of the Maharashtra Co-operative Societies Act, 1960 for recovery of amount due from the petitioner to respondent no. 3 – society.

2. The petitioner claims to be owner of a shop admeasuring 72 sq.ft in a building which came to be redeveloped. As a result of redevelopment, the petitioner was put in possession of permanent alternate accommodation viz, Gala No. 1 in the redeveloped building. His grievance against the society is inter alia that he has not

been issued a share certificate and that complaints made by him of nuisance allegedly caused by other members of the Society had not been attended to.

3. The petitioner has admittedly not paid outstanding maintenance amounts in respect of premises in his occupation. According to the petitioner he has not received any demand notice or bill for the said amount. This was contested on behalf of the society which instituted proceedings for recovery of the amounts due. As a result the impugned order dated 12<sup>th</sup> October, 2015 came to be passed. It is case of the society as canvassed by Mr. Gangal the learned counsel for the society that several notices of hearing were issued including on 28<sup>th</sup> February, 2013. The order dated 12<sup>th</sup> October, 2015 records that numerous bills/ notices have been issued including on 28<sup>th</sup> February, 2013, 15<sup>th</sup> March, 2013, 26<sup>th</sup> March, 2013, 30<sup>th</sup> September, 2014, 30<sup>th</sup> October, 2014, 17<sup>th</sup> November, 2014, 1<sup>st</sup> December, 2014, 15<sup>th</sup> December, 2014, 6<sup>th</sup> January, 2015, 27<sup>th</sup> January, 2015, and so on.

4. The petitioner was then ordered to pay an amount of Rs1,16,689/- but this was not paid. Instead, the petitioner filed a revision which came to be dismissed on or about 6 May, 2013 after recording the fact that the petitioner had failed to remain present although sufficient opportunity was granted to him. A Certificate under section 101 was issued for sum of Rs. 1,16,689/-.

5. The only challenge today is on the ground that he had no notice of the amount that he had to pay but he is willing to pay the principal sum. Mr. Thomas the learned Advocate for the petitioner contended that the petitioner had paid more than Rs.1,00,000/- to the respondent towards the outstanding amount. The petition

reveals that the petitioner has claimed to have deposited a sum of Rs.58,350/- No doubt if he has paid some amounts the society is bound in law to give credit. Mr.Gangal promptly agreed that the society is indeed bound to give credit for payments made if any. Being a member he is bound to pay maintenance charges and merely by contending that he has not received bills from the society he cannot avoid payment of his dues. In the facts of the case there is no reason to interfere with the impugned order which is passed in accordance with law and after considering the case of the petitioner.

6. As far as share certificate is concerned Mr. Gangal very fairly states that upon payment of entire outstanding, the society will issue a share certificate within a period of four weeks from today. This statement is accepted on an undertaking to the Court subject to payment of the balance amount.

7. Accordingly I pass the following order :

- (i) The petitioner shall pay the outstanding amounts due to the respondent within three weeks of the final bill being issued to the petitioner. Such bill to be issued within one week from today. The society shall give due credit for part payments if any made.
- (ii) Within a period of one week of payment being made the society will issue the petitioner the share certificate pertaining to his premises.
- (iii) Writ Petition is disposed in the above terms.
- (iv) No order as to costs.

(A.K. MENON, J.)

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signed by  
Rajeshwari  
Ramesh  
Pillai  
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