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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.3133 OF 2017**

**WITH**

**IN PERSON APPLICATION NO. 34 OF 2018**

Sandhya Hastimal Jain ...Petitioner

vs

Shri Ganesh Apartments Co-Operative  
Housing Society Ltd. And 2 Ors. ...Respondents

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Mr. Sanjay Jain, a/w. Mr. Jainish Jain, i/b. LJ Law, for the Petitioner.

Mr. Shekhar Pathare, Chairman of Respondent No.1 Society-in-person.

Mr. Amar Mishra, a/w. Mr. Manish Upadhye, AGP, for Respondent Nos.  
2 and 3.

.....

**CORAM : S.C. GUPTE, J.**

**DATED : FEBRUARY 28, 2018**

**P.C. :**

. Heard learned Counsel for the Petitioner and the Chairman  
of Respondent No.1 Society, who appears in person.

2. The petition challenges two orders passed by the co-  
operative authorities in an application under Section 23 of Maharashtra  
Co-Operative Societies Act for deemed membership of the Society. The  
Society has rejected the Petitioner's application for separate membership  
of a certain area of her flat on the basis that this area originally formed  
part of an adjacent flat and that the Petitioner would like to have

separate membership in respect of this area. The case of the Society is that unless splitting of this area is sanctioned by the Municipal Corporation, the Society cannot issue separate membership in respect of this area so as to enable the original member to get membership of two flats. That appears to be a reasonable stand. The impugned orders of the co-operative authorities cannot be faulted. The grievance of the Petitioner, thereupon, is that the Petitioner is in fact prepared to apply to the Municipal Corporation of Greater Mumbai for splitting of this area, but that the Society is refusing to issue NOC to do so. This grievance also appears to be genuine. The response of Respondent No.1, thereupon, is that if the Petitioner is issued separate membership in respect of this area, which is sought to be carved out from his original holding, the Petitioner may get certain further advantages in respect of future development of Society's buildings, which the other members cannot ordinarily get. When this is pointed out before the Court, learned Counsel for the Petitioner submits that his client shall not seek any special advantage from out of splitting of the total area of her holding and getting separate membership in respect of two split areas. Learned Counsel submits that his client shall agree to the benefits, which are available to other members in respect of the respective areas occupied by them in the building of the Society. The statement is accepted. In view of this statement, which is accepted by the Court, Respondent No.1 Society now has no objection to issuance of NOC requested for by the Petitioner within four weeks from today. Accordingly, the Society's statement that it will issue the requisite NOC is accepted. Respondent No.1 Society also states that it will have no objection for issue of two separate memberships in respect of the split areas of the flat if the

Municipal Corporation approves the sub-division. The statement is accepted. It is, however, made clear that the splitting of the flat shall strictly depend upon the Municipal Corporation's acceptance of the proposal of splitting and the Society shall not, in any way, responsible for such splitting. Since there is no further relief to be claimed in the petition, the petition is disposed of. Liberty to apply.

**( S.C. GUPTE, J. )**