

Ram Krishna S. Chopdekar and another	...	Petitioners
Vs.		
Jai Anant Co-operative Housing Society Ltd. and others	...	Respondents

CORAM : UJJAL BHUYAN, J.
DATE : NOVEMBER 04, 2019

Heard Mr. Patil, learned counsel for the petitioners.

2. Considering the subject matter of the writ petition and the order that is proposed to be passed, Court is of the view that issuance of formal notice is not necessary as the matter can be disposed of at this stage itself without any prejudice to the respondents.

3. Petitioners as original disputants have lodged an election dispute relating to election to the managing committee of Jai Anant Co-operative Housing Society Limited (Co-operative Society), respondent No.1, more particularly relating to election of respondent Nos.2 and 3 as President and Secretary of the Co-operative Society by contending that they are not even members of the Co-operative Society and thus ineligible.

4. This dispute has been registered as Election Dispute No.16 of 2015 before the 3rd Co-operative Court at Mumbai. During pendency of the election dispute, petitioners filed an application before the Co-operative Court to restrain respondent Nos.2 and 3 from functioning as office bearers of the Co-operative Society. However, the Co-operative Court by order dated 01.11.2017 rejected the prayer for stay.

5. Aggrieved thereby petitioners preferred appeal before the Maharashtra State Co-operative Appellate Court, Mumbai being A.O.No.146 of 2017. By order dated 05.04.2018, the Appellate Court dismissed the appeal. Appellate Court held that the balance of convenience is in favour of respondent Nos.2 and 3 than that of the disputants (petitioners). Since election of respondent Nos.2 and 3 has not yet been interfered with, it would not be just and proper to restrain them from functioning as office bearers of the Co-operative Society.

6. Review Petition filed by the petitioners being Review Petition No.13 of 2018 was also dismissed by the Appellate Court vide order dated 29.11.2018.

7. Aggrieved, present writ petition has been filed.

8. On due consideration, Court is of the view that there is no error or infirmity in the view taken by the Co-operative Court as well as by the Appellate Court in declining to restrain respondent Nos.2 and 3 from functioning as office bearers of the Co-operative Society during pendency of the election dispute. However, it is seen that the election dispute is pending since the year 2015 and, therefore, an early decision, one way or the other, is called for to end the uncertainty.

9. Accordingly and in the light of the above, 3rd Co-operative Court at Mumbai is directed to expedite the hearing of Election Dispute No.16 of 2015 and conclude the same within a period of 3 months from the date of receipt of an authenticated copy of this order. This disposes of the Writ Petition.

(UJJAL BHUYAN, J.)