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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.177 OF 2018

M/s. Rahul Construction Company ..Applicant.
V/s.
Ms. Mangala Krishnaji Deshmukh & Anr. ..Respondents.

***WITH
CIVIL REVISION APPLICATION (ST) NO.5293 OF 2018***

New Ajanta Co-op. Hsg. Society Ltd. ..Applicant.
V/s.
Ms.Mangala Krishnaji Deshmukh & Anr. ..Respondents.

Mr.Y.S.Jahagirdhar, Senior Advocate with Sarang S.Aradhya & Milind Prabhune for the applicant in CRA/177/2018.

Mr.S.S.Wakankar for the applicant in CRAFT/5293/2018.

Mr.Shankar S.Deshmukh for respondent No.1.

CORAM : M.S.SONAK, J.

DATE : MARCH 15, 2019

P.C.:-

Heard Mr.Y.S.Jahagirdhar, learned senior counsel for the applicant in Civil Revision Application No.177 of 2018, Mr.Wakankar, learned counsel for the applicant in Civil Revision Application (St) No.5293 of 2018 and Mr.Deshmukh, learned counsel for respondent No.1 in both the applications.

2. Challenge in these applications is to the orders dated October 10, 2017 and January 31, 2018 by which, learned Co-operative Court and Co-operative Appellate Court have dismissed the applicant's application seeking of the rejection of the plaint / dispute application by resorting to Order VII Rule XI of the Civil Procedure Code.

3. Learned counsel for the applicants submits that the issue of damages or for that matter the issue in relation to the flat in question could not have been raised in a proceeding under section 91 of the Maharashtra Co-operative Societies Act, 1960. Learned counsel for the applicants point out that after the claim in dispute application was amended the issue of damages has been raised and, therefore, the plaint / dispute application warrants rejection.

4. Admittedly, reliefs prayed for, by way of an amendment to the plaint / dispute application, are not the only reliefs prayed for by respondent No.1. That apart, the objections cannot be regarded as objections sufficient to reject the plaint / dispute application. At the highest, the applicants herein could be given liberty to raise such objections in the proceedings and on the basis of such objections, urge that no reliefs can be granted to respondent No.1. But there is no case made out to interfere in the impugned orders. Accordingly, these revision applications are dismissed.

5. It is made clear that the applicant will be at liberty to raise

any such objections to oppose the grant of reliefs to respondent No.1.

It is however clarified that this Court has not gone into the merits of the said objections and, therefore, all contentions of the parties in this regard are specifically kept open for decision by the Co-operative Court.

6. With the clarification as aforesaid, these revision applications are dismissed.

7. There shall be no order as to costs.

8. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)