

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 4694 OF 2015

Jay Co-operative Housing Society Ltd. .. Petitioner
Vs.
State of Maharashtra & Ors. .. Respondents

Mr. S. S. Kanetkar for the Petitioner.
Mr. R. M. Pethe for Respondent Nos.2 to 5 & 7.
Mr. M. M. Pabale, AGP for Respondent Nos.1, 6 & 8.
Ms. Manjiri Parasnis for Respondent No.9.

**CORAM : PRADEEP NANDRAJOG, C.J. &
N. M. JAMDAR, J.**
DATE : 24th JULY, 2019.

P. C. :

1. Heard learned Counsel for the parties.
2. The Petitioner seeks demolition of bungalow No.4 constructed on the land of the Petitioner-society alleging that Respondent No.9 is in illegal occupation of the bungalow and further that the bungalow has been constructed illegally. Reliance is placed upon an order dated 15.02.2011 passed by the Division Bench in Letters Patent Appeal No. 89 of 2010 filed by Respondent No.9 which order affirms the decision of the learned Single judge that Respondent No.9 had not proved legal title or right to the land.
3. Learned Counsel for Respondent No.9 has handed over a Memorandum of Understanding dated 24.02.2016. The Understanding is between Respondent No.9 and the Co-operative

Society through its Chairperson, Secretary, Joint Secretary and members of the Jay Co-operative Housing Society Ltd.

4. Two issues would, therefore, have to be resolved. The first concerning the right of Respondent No.9 qua bungalow No.4. The second whether the construction is legal. The second issue has no concern with who owns title to the bungalow. On the issue of title to the bungalow suffice it to record that a writ Court could not adjudicate on a issue of title.

5. Thus, the Petition is disposed of directing the 2nd Respondent to determine whether the bungalow No.4 built on CTS No. 384A/2, Bhawani Peth, Pune is legal or illegal. If it is found that the construction is illegal and cannot be regularized, action as per law would be initiated by Respondent No.2 within six weeks from today and if action is initiated, it shall be taken to its logical conclusion as per law.

[N. M. JAMDAR, J.]

[CHIEF JUSTICE]