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

***CIVIL APPELLATE JURISDICTION***

***WRIT PETITION NO.7609 OF2019***

Vinod Lalchand Yadav & Ors.

Legal heirs of deceased Lalchand K.Yadav ..Petitioners.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Mr.Deven Jogdeo for the petitioners.

Mr.S.D.Rayrikar, AGP for respondent No.1.

Mr.V.M.Mahadik for respondent-MCGM.

Mr.Santosh Shetye for respondent No.6-society.

***CORAM: NITIN W.SAMBRE, J.***

***DATE : JULY 23, 2019***

**P.C.:-**

Heard respective counsel.

2. The revision of the present petitioners under section 154 of the Maharashtra Co-operative Societies Act, 1960 ('the Act' for short) is rejected for non compliance of mandatory deposit of 50% of the amount mentioned in the recovery certificate issued under section 101 of the Act. The petitioners have questioned the

recovery certificate before this Court on the ground that the person against whom the recovery certificate is issued in 2018 had already expired in 2001.

3. According to learned counsel, so as to demonstrate their *bona fides*, the petitioners will deposit amount of maintenance for the last three years, within a period of three weeks from today. The same was opposed by the respondents, as according to them, the petitioners lack *bona fides*.

4. Considered rival submissions.

5. The petitioners before this Court are the legal heirs of one Lalchand K.Yadav, who was the original allottee of the premises in question for which, though the petitioners are enjoying the property / possession, have not paid maintenance since 1989.

6. This Court has to consider the claim that the petitioners were called upon to deposit 50% of the amount mentioned in the recovery certificate issued under section 101 of the Act to which the petitioners are not in agreement. The petitioners at this stage raised the issue of limitation which admittedly need not be gone into at this stage.

7. On one hand, the petitioners are enjoying the property

in question at the costs of other members of the society, who are regularly paying the maintenance and on the other hand, by not paying the maintenance since 1989 are enjoying the property in question at the cost of other members of the co-operative society, are coming out with a plea that adjudication was against their deceased father. There is sufficient material to infer that the petitioners were in the knowhow of the pendency of the proceedings under section 101 of the Act as they are in possession of the property in question.

8. In the aforesaid backdrop, having regard to the fact that the petitioners are not ready and willing to pay maintenance for last almost more than 30 years and are not ready to comply with the provisions of section 154(2A) of the Act, in my opinion, no case for interference in the supervisory jurisdiction is made out. The petition fails and is dismissed.

*(NITIN W.SAMBRE, J.)*

