

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2323 OF 2019
IN
WRIT PETITION NO. 11985 OF 2018

Mahendra Hari Pujari ... Applicant

IN THE MATTER BETWEEN :

Maharashtra Darshan CHSL. ... Petitioner

Versus

The Chief Executive Officer, SRA & Ors. ... Respondents

Mr.Ram Apte, Sr. Adv. a/w. Mr. Virendra Pethe for the Applicant.

Mr.Ramesh Gharat for the Petitioner.

Mr.Anoop Patil for SRA.

Ms.A.A.Puray, AGP for the Respondent State.

CORAM : S.J. KATHAWALLA, &
B.P. COLABAWALLA, JJ.

DATE : 29TH NOVEMBER, 2019

P.C.:

1. The above Civil Application is filed by one Mr.Mahendra Hari Pujari seeking restoration of Writ Petition No. 11985 of 2018. The said Writ Petition was filed by the Petitioner - Maharashtra Darshan Cooperative Housing Society Limited. Thereafter, the elections for the Managing Committee of the Petitioner Society were held in April-2019 and the new Managing Committee unconditionally withdrew the above Writ Petition, as can be seen from the Order of this Court (Coram : A.S. Oka

and M.S. Sanklecha, JJ.) dated 25th April, 2019. It appears that the Managing Committee elections of the Petitioner Society have been challenged but there is no stay with regard to the functioning of new Managing Committee, which has unconditionally withdrawn the above Writ Petition on 25th April, 2019.

2. The Petitioner Society has 137 members. Only one member of the Society i.e. the Applicant has filed the above Civil Application seeking restoration of the Writ Petition, on the ground that the new Managing Committee had no power or authority to withdraw the same. Interestingly, the Applicant has neither directed the Civil Application to the Petitioner Society nor has he bothered to forward a copy of the same to the Petitioner Society. In any event, the Applicant has no locus to file the above Civil Application seeking restoration of the above Writ Petition, which is unconditionally withdrawn by the Petitioner Society on 25th April, 2019 and the Applicant not having obtained any stay against the functioning of the new Managing Committee of the Petitioner Society. It will not be out of place to mention here that a fresh Writ Petition is already filed by 15 out of 137 members of the Petitioner Society, which is pending before this Court and will be decided on its own merits. The above Civil Application is therefore disposed off as dismissed.

3. The learned Senior Advocate appearing for the Applicant states that this Order should not prejudice the proceedings, which the Applicant has filed against the other members and concerned officers of Cooperative Department i.e. Returning

Officer and Assistant Registrar under the Maharashtra Cooperative Societies Act, 1960. It is clarified that the concerned Cooperative Court shall decide the dispute/s between the Applicant and the Petitioner Society strictly on merits without being influenced by any of the observations made in this Order.

(B.P. COLABAWALLA, J.)

(S.J.KATHAWALLA, J.)