

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12026 OF 2019

Shri Dilip Madhukar Kore and anr. ... Petitioners

V/s.

State of Maharashtra and ors. ... Respondents

Mr.Adesh Agarkar, Advocate for the Petitioners.

Mr.S.S.Kanetkar, Advocate for Respondent Nos.8 and 9.

Mr.S.L.Babar, AGP for Respondent Nos.1 to 5.

CORAM : UJJAL BHUYAN, J.

DATE : DECEMBER 11, 2019.

P.C.:-

1. Heard Mr.Adesh Agarkar, learned counsel for the petitioners; and Mr.S.L.Babar, learned AGP for respondent Nos.1 to 5; also heard Mr.S.S.Kanetkar, learned counsel for respondent Nos.8 and 9.

2. Petitioners are members of a co-operative housing society by the name of Padmachaya Co-operative Housing Society (co-operative society). The co-operative society has 113 members. It is further seen that the co-operative society has two plots of land, one at

Yashwantrao Chavan Nagar, Dhankawadi, Pune and other at Chandan Nagar, Kharadi, Pune.

3. Petition discloses that owing to distance between the two plots of land, it was decided to bifurcate the co-operative society. Pursuant to submission of plan for bifurcation, respondent No.3 passed order dated 18th April, 2019 bifurcating the co-operative society into two societies granting two different registration numbers.

4. It appears that for various reasons petitioners were opposed to such bifurcation in the manner in which it was done.

5. Aggrieved by order dated 18th April, 2019, they preferred appeal before respondent No.2 which was registered as Appeal No.35 of 2019. Initially a stay was granted. The grant of stay by the Appellate Authority led to a series of litigation, details of which may not be relevant for the purpose of the present case.

6. Suffice it to say that when the matter was brought before this court in Writ Petition No.8138 of 2019, this court vide order dated 29th July, 2019 directed respondent No.2 to hear and decide the appeal on merit.

7. Respondent No.2 thereafter passed order dated 16th September, 2019 dismissing the appeal filed by the petitioners.

8. Contention of the petitioners is that respondent No. 2 had dismissed the appeal of the petitioners without properly appreciating the grievance of the petitioners and the relevant legal provisions.

9. Aggrieved by dismissal of their appeal, petitioners preferred a revision application before respondent No.1 on 7th October, 2019. Stating that because of political deadlock, consideration of the revision application of the petitioner has become uncertain. In such circumstances, the present writ petition came to be filed.

10. When the petitioners have availed their statutory remedy of filing revision application under Section 154 of the Maharashtra Co-operative Societies Act, 1960, question of entertaining the present writ petition does not arise. It needs no reiteration that a person cannot paralarally pursue two remedies on the same subject matter. When the petitioners have availed their statutory remedy, it would be in the interest of justice if the said

remedy is first exhausted. Accordingly, respondent No.1 is directed to take on board the revision application stated to have been filed by the petitioners on 7th October, 2019 and thereafter, to decide the same in accordance with law within a period of three months from the date of receipt of an authenticated copy of this order.

11. Writ petition is disposed of.

(UJJAL BHUYAN, J.)

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