

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

WRIT PETITION NO. 12766 OF 2018

Mr. Rupesh Sawant and ors.	...Petitioners
<i>Versus</i>	
The Dy. Reg. Co-op. Soc. and ors.	...Respondents

Mr.Madhav Jamdar for the petitioners.
Mr.P.P. Pujari, AGP for the respondent-State.
Mr.S.S. Kanetkar i/b. Mr.Kunal Naik respondent nos.5 to 7.
Mr.Umed W. Kamble, Deputy Registrar Co-operative Society,
MHADA.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 22nd NOVEMBER 2019.

P.C. :

The petitioners were elected to the Managing Committee of the Housing Society—Charkop Atharva Co.Op. Hsg. Soc. Ltd. It was for the term 2011-2016. In 2014, under the Maharashtra Housing Co-operative Societies Act, new Rules were introduced. Those Rules, among other things, required the Managing Committee to prepare a list of the members and forward it to the Deputy Registrar, MHADA. The Managing Committee did act under those Rules. Then, the Authorities published a draft voters' list and, later, the final list, too.

2. Nevertheless, a few members complained against the Managing Committee. Based on that objection, the Registrar concerned issued a notice to the petitioners proposing to hold an inquiry on 8th August 2017. The petitioners, however, maintain that they received the notice only the next day: 9th August 2017. Later, without further notice, as the petitioners allege, the Registrar proceeded with the inquiry and passed the order, dated 7th September 2017, under Section 77(a) of the Act. That is, the Deputy Registrar appointed an Authorised officer.

3. Against the order appointing the Authorised Officer, the petitioners filed an appeal and secured a stay on 30th November 2017. The stay continued till 29th September 2018, when the appeal was dismissed.

4. On the dismissal of the appeal, aggrieved, the petitioners filed a revision application under Section 154 of the Act, before the Hon'ble Minister for Co-operation and Textiles Department. In that revision application, the petitioners filed an interlocutory application for stay. But neither the revision application nor the interlocutory application was taken up.

5. Under those circumstances, the petitioners filed this writ petition and secured interim protection. To be explicit, the petitioners

filed this writ petition in October 2018 and secured the interim order on 1st November 2018. To this day, the order has been in force. At any rate, the respondents' counsel points out that the stay granted by this Court was in force till 11th July 2019; thereafter, it was not extended. But that hardly matters.

6. According to the respondents' counsel, nothing more survives in this writ petition. He wants the Court to close the writ petition on the premise that it has become infructuous by efflux of time. But the petitioners' counsel insists that if this Court declares that the petitioners' tenure has ended, then it paves the way for the authorities to appoint an administrator or authorised officer. Instead, he insists that the present Managing Committee should be allowed to be at the helm of the Society's affairs. He also stresses that the petitioners are ready to hold the elections based on the final list of members the Managing Committee forwarded to the authorities way back in 2014.

7. Indeed, the issue in this writ petition concerns the petitioners' tenure. And that tenure was over in 2016. I reckon their grievance, at the inception, was that their tenure should not be cut short; no authorized officer should be appointed. That plea could be valid until their term ended. But beyond that period, for over three years, the

petitioners have continued at the helm of the affairs—thanks to interim directions at various stages.

8. I find force in the respondents' contention that the writ petition does not survive any further. It needs no judicial cogitation to hold that the petitioners' tenure ended in 2016. That accepted, it is not in this Court's province to declare that the petitioners alone should continue until the elections are held. It is for the authorities to decide: they may continue the present Managing Committee if the statute permits or may have any other legally permissible arrangement until the elections are held. The Court does not intend to usurp the administrative discretion.

9. At this juncture, the petitioners' counsel has raised a curious plea. He stresses that the petitioners filed this writ petition because the Revisional Authority has not taken up the revision, or the interlocutory application in it, on time. So this Court's closing this writ petition does not affect the petitioners' rights in the pending revision. Indeed, the plea is curious. The entire dispute is coterminous with the Managing Committee's tenure; the tenure ended, all questions that arose concerning the Managing Committee's continuation have become moot or academic.

As a result, I hold that this writ petition does not survive because it has, as the respondents' counsel puts it, become infructuous by efflux of time. I accordingly close it.

Vina A.
Khadpe

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[DAMA SESHADRI NAIDU, J.]