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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.561 OF 2013
WITH
NOTICE OF MOTION NO.75 OF 2018

Thosar House Co-operative Housing Soc. Ltd. ...Petitioner
V/s.
The State of Maharashtra & Ors. ...Respondents

Mr.M.R. Phal for the Petitioner.
Mr.Milind More, A.G.P. for the State – Respondent Nos.1 to 4.
Mr.Anilkumar Patil and Mr.Pankaj Pande for the Respondent No.6.
Mr.Vijay H. Patil, Representative of the Respondent No.6 present.

CORAM : R.D. DHANUKA, J.
DATE : 6TH JUNE, 2019.

P.C. :-

1. Learned counsel appearing for the petitioner states that his client is not pressing prayer clause (d) and seeks to press other prayer clauses. Leave to amend is granted. The amendment to be carried out forthwith. Re-verification is dispensed with. In view of the petitioner having not pressed prayer clause (d), the matter can be heard by this Court.

2. By consent of the petitioner and the respondent nos.5 and 6 who are the contesting respondents, the impugned orders dated 4th October, 2012 passed by the respondent no.2, the order dated 31st January, 2012 passed by the respondent no.3 and the order dated

23rd October, 2012 passed by the learned Minister for Co-operation are quashed and set aside in view of the respondents having conceded that the respondent no.2 did not have any jurisdiction to issue any such directions or pass any orders under section 79(2) of the Maharashtra Co-operative Societies Act, 1960. In view of the statement made by the learned counsel for the respondent nos.5 and 6 on instructions from Mr.Vijay H. Patil, husband of the respondent no.6 to the aforesaid effect, parties have agreed that this Court shall not deal with other submissions advanced by both the parties in this matter. Statement made by the learned counsel is accepted.

3. It is not in dispute that the respondent nos.5 and 6 have already filed a dispute bearing No.ABN/CC/IV/ Of 2010 before the Co-operative Court -IV under section 91 of the Maharashtra Co-operative Societies Act, a copy whereof is annexed at Exhibit "I" to the petition in respect of various reliefs. The said dispute is still pending. The respondent nos.5 and 6 have agreed to pursue the said dispute before the Co-operative Court and prays that the hearing of the said dispute be expedited.

4. Hearing of the said dispute is expedited. Both the parties are directed to proceed with the said dispute. All the contentions of the parties in the said dispute are kept open.

5. Mr.Phal, learned counsel for the petitioner does not

dispute that the Co-operative Court has jurisdiction to entertain, try and dispose of the said dispute filed by the respondent nos.5 and 6 before the Co-operative Court-IV. The statement is accepted. It is made clear that since the impugned orders dated 4th October, 2010, 31st January, 2012 and 23rd October, 2012 are quashed and set aside by this Court by consent of parties, which orders are passed in furtherance of the order dated 5th November, 2009, none of the parties to the said order would be bound by these orders. Learned Co-operative Court shall make an endeavor to dispose of the said dispute within six months from the date of commencement of oral evidence. Both the parties shall co-operate with each other and also with the Co-operative Court in disposing of the said dispute expeditiously and shall not seek any unnecessary adjournment.

6. Rule is made absolute in aforesaid terms. There shall be no order as to costs.

7. In view of disposal of the writ petition, Notice of Motion No.75 of 2018 does not survive and is accordingly disposed of.

8. All the parties as well as the Authority to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)