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

**NOTICE OF MOTION (I) NO.261 OF 2019
IN
ARBITRATION PETITION NO.268 2019**

Anand Dham Co-operative Housing
Society Ltd. ... Applicant

IN THE MATTER BETWEEN

Kings Empire Heights Pvt. Ltd. ... `Petitioner.
V/s.
Nilesh Laxmikant Kundalkar and ors ... Respondents

**ALONGWITH
CHAMBER SUMMONS NO.354 of 2019
IN
NOTICE OF MOTION (L) NO.261 OF 2019
IN
ARBITRATION PETITION NO.268 OF 2019**

Vasudev Appaji Pawar and ors ... Applicant.

IN THE MATTER BETWEEN

Kings Empire Heights Pvt. Ltd. ... `Applicant.
V/s.
Nilesh Laxmikant Kundalkar and ors ... Respondents

- Ms. Rama Subramanian i/by Amit Karle, for the Applicant in Notice of Motion (L) No.26 of 2019.
- Mr. Rajesh N. Kachare i/by Gaurav Patankar, for applicant in Chamber Summons No.354 of 2019 .
- Mr. Shirin Shaikh i/by Vivek Patil, for respondent No.1.
- Mr. Rajiv Narulla, i/by Mehl Shah, for original petitioner

CORAM : G. S. KULKARNI, J.

DATE : 13th MARCH, 2019.

P.C. :

1] Heard Ms. Rama Subramanian, learned counsel for the applicant in Notice of Motion (L) No.261 of 2019, Mr. Rajesh Kachare, learned counsel for the applicant in Chamber Summons No.354 of 2019 original petitioner and learned counsel for respondent No.1.

2] This petition was heard and disposed by an order dated 29th November, 2018 in terms of Consent terms.

3] This Notice of Motion is stated to be filed by respondent No.2 seeking the following reliefs:-

"(a) That this Hon'ble Court be pleased to pass the necessary orders/directions and revoke /cancel the said Consent Terms dated 29th November 2018 filed in the above Arbitration Petition;

(b) Pending the hearing and final disposal of the above Notice of Motion, this Hon'ble Court be pleased to direct and order to stay the further execution, implication and effect of the said Consent Terms dated 29th November, 2018;

(c) Pending the hearing and final disposal of the above Notice of Motion, this Hon'ble Court be pleased to direct and order the petitioners and the respondents to not take any further steps or action in terms of the said Consent Terms dated 29th November, 2018;

4] On hearing learned counsel for the parties, it clearly appears

that there are disputes *interse* between the members of applicant society on one hand and the managing committee members on the other hand, inasmuch as the contention of the applicant society now is that the Managing Committee, who had signed the consent terms on behalf of society had no authority to execute the consent terms and thus the consent terms are illegal. It is her contention that the Consent Terms are accordingly not binding on the society.

5] The disputes *interse* between the members of the society and the Managing committee cannot be adjudicated in the present proceedings, as urged on behalf applicant society. The appropriate forum to adjudicate such grievance would be as provided under the Maharashtra state co-operative Societies Act, 1960. Accordingly no interference can be made at this stage in the orders dated 29.11.2019, passed by this Court.

6] Learned counsel for the applicant at this stage submits that an attempt to resolve the dispute is also being undertaken. Mr. Narulla, learned counsel for the original petitioner would submit that in fact extra benefits are already granted. He, however, submits that if there are any other issues, an attempt can be made to amicably resolve the disputes.

7] Notice of Motion is accordingly disposed of with liberty to the petitioner to adopt appropriate remedy as available in law.

8] All contentions of the applicant and respondents in that regard are expressly kept open. No costs.

9] In view of disposal of Notice of Motion, pending Chamber Summons No.354 of 2019 in Notice of Motion stands disposed of.

[G. S. KULKARNI, J]