

Amrut

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.273 OF 2021.

WITH

MISC. CIVIL APPLICATION NO. 1612 OF 2021 (Filing No.)

M/S MODELS LEISURE VENTURES,
THR. ITS PARTNER, DANIRA
ISABEL VAZ

...Petitioner.

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND 3 ORS

...Respondents.

Mr. A. Gomes Pereira, Advocate for the petitioner.

Mr. D. Pangam, Advocate General with Ms. Maria Correia,
Additional Government Advocate for respondent nos. 1 to 3.

Mr. Rohit Bras De Sa, Advocate for respondent no.4.

WITH

WRIT PETITION NO.1502 OF 2021(Filing No.)

MODELS MARINE VISTAS CO-OP.
HOU. MAINT. SOC. LTD., THR. ITS
SECRETARY, SUDHEER P. DESAI
AND 2 ORS

...Petitioners.

Versus

STATE OF GOA, THR. THE CHIEF
SECRETARY AND 3 ORS

...Respondents.

Mr. Rohit Bras De Sa, Advocate for the petitioners.

Mr. D. Pangam, Advocate General with Mr. Shubham
Priolkar, Additional Government Advocate for respondent
nos. 1 to 3.

WITH
WRIT PETITION NO.1482 OF 2021(Filing No.)

MODELS MARINE VISTAS CO-OP. ...Petitioners
HOU. MAINT. SOC. LTD., THR. ITS
SECRETARY, SUDHEER P. DESAI
AND 2 ORS

Versus

STATE OF GOA, THR. THE CHIEF ...Respondents
SECRETARY AND 3 ORS

Mr. Rohit Bras De Sa, Advocate for the petitioners.
Mr. D. Pangam, Advocate General with Mr. Neehal S.
Vernekar, Addl. Govt. Advocate for respondent nos. 1 to 3.

**CORAM: SUNIL P. DESHMUKH &
M. S. SONAK, JJ.**

DATED: 11th August 2021

P.C.:

1. Facts leading to the present set of writ petitions would be pertinent to be referred to.

2. Writ Petition No.273 of 2021 has been filed by M/s Models Leisure Ventures, a partnership firm through one Ms. Danira Isabel Vaz claiming to be its partner. The petitioner has been in appeal before the appellate authority against the rejection of its application for membership of the aforesaid co-operative society.

3. Writ Petition No.273 of 2021 takes exception to an order dated 12th July 2021, whereunder petitioner's application to reject/discard affidavit in reply filed by one Sudheer P. Desai, Secretary of the society on 23rd February 2021, has been rejected by appellate authority observing that the society has filed an affidavit in reply through Secretary of Models Marine Vistas Co-op. Housing Maintenance Society Ltd. Contention of the Petitioner that said position is disputed has not found favour with the authority since there had been no disqualification of office bearers.

4. In the appeal initially, the petitioner has made as many as 20 persons who were stated to be members of Models Marine Vistas Co-operative Housing Maintenance Society Ltd. While the appeal progressed, said members appeared in the proceedings and filed their replies. Thereafter, application had been moved by the petitioner in Writ Petition No.273 of 2021, seeking their removal from the array of respondents and the same came to be allowed on the very same day i.e. 12th July 2021. Against their deletion the members of the co-operative society are before this Court in Writ Petition bearing No.1502 of 2021.

5. Writ Petition No.1482 of 2021 has been preferred by Models Marine Vistas Co-operative Housing Maintenance Society Ltd., through its Secretary seeking directions not to

decide the appeal without hearing members of the society without taking into account preliminary objections to the appeal raised by them.

6. Various contentions have been advanced on either side in the set of these petitions. The contention of the petitioner in Writ Petition No.273 of 2021 is that Sudheer Desai is not competent to represent the society purporting to refer to some factual aspects. The other order which has been passed removing the petitioners in Writ Petition No.1502 of 2021 from array of respondents in the appeal, on perusal of the same, it emerges that the same has been passed on an application dated 19th April 2020 without giving hearing to said petitioners-respondents in the appeal after their replies have been filed.

7. We consider that having regard to the nature of dispute being sought to be raised and allegations made against each other by the petitioners in respective petitions, it would be expedient that the appeal itself be proceeded with after hearing the parties to these petitions, along with the application filed by the petitioner in Writ Petition No.273 of 2021.

8. For aforesaid purpose, it would be appropriate that both the orders dated 12th July 2021 be set aside. Accordingly we set aside said orders (impugned in Writ Petitions No. 273 of 2021 and

1502 of 2021 respectively) directing the appellate authority to proceed with the appeal along with the application as expeditiously as possible preferably within a period of three months from the date of receipt of writ of this order observing principles of natural justice. The petitioners are expected to cooperate with the authority for the disposal of appeal and the applications.

9. Pleadings, if any, be completed in the appeal in any case within a fortnight from the receipt of writ of this order. While setting aside order the appeal gets restored with revival of deleted respondents.

10. While orders impugned have been set aside in other two matters, request to consider objections filed by the petitioners in Writ Petition No.1482 of 2021, as well be decided along with appeal and the applications.

11. In view of the aforesaid, Misc. Civil Applications, if any, which may be pending are also disposed of.

M. S. SONAK, J.

SUNIL P. DESHMUKH, J.