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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**CIVIL WRIT PETITION NO. 673 OF 2022
WITH
INTERIM APPLICATION NO. 3475 OF 2021**

NIRAV CO-OPERATIVE HOUSING SOCIETYPETITIONER
LIMITED THR. ITS SECRETARY/CHAIRMAN

V/s.

DILIP JAGIVAN RAICHURA AND ORSRESPONDENTS

Mr. Vikhil Dhoka a/w Ms. Sushma Soni i/b GM Legal Advocate for
the Petitioner

Ms. Mamta Tiwari i/b Satish Agarwal Advocate for Respondent

CORAM : NITIN W. SAMBRE, J.

DATE: MARCH 30, 2022.

P.C.:

- 1) Heard finally by consent of the parties.
- 2) Petitioner-Defendant has prayed that his Notice of Motion for rejection of Plaint moved under Order VII Rule 11 of Code of Civil Procedure, 1908 (Hereinafter referred to as 'CPC' for the sake of brevity) be decided prior to Notice of Motion for grant of temporary injunction moved by the Respondent-Plaintiff. The Court below

rejected the said prayer.

3) Contention is, if the Suit is rejected for want of jurisdiction or its maintainability, the injunction if granted will be contrary to law and that being so, Notice of Motion for rejection of Plaint be decided first.

4) The Petitioner for the aforesaid cause of getting his Notice of Motion for rejection of Plaint under Order VII Rule 7 decided first, has approached this Court under Article 227 of the Constitution of India as his said prayer is rejected vide impugned order.

5) At the outset, it is required to be noted that the Presiding Officer of Civil Court is a Master of his court proceedings and it is within his reasonable discretion to follow a particular procedure which, of-course, cannot be dictated by parties to the suit proceedings. Whether injunction application is to be decided prior to application for rejection of plaint under Order VII Rule 11 or vice versa is completely within the ambit and control of the judge who is presiding over the court.

6) In that view of the matter, a particular approach in proceeding with the proceedings, unless exceptionally illegal, cannot be

interfered with under supervisory powers of this Court. The scope of interference under Articles 226 and 227 if compared, later has very narrow sphere which can be exercised only for the purpose of correcting mistakes apparent on the face of record and not for just correcting mere errors. As long as the Court has acted in its limits and within the bounds of its authority, the power of superintendence conferred under Article 227 cannot be exercised. Even a gross error of fact cannot be corrected in exercise of powers under Article 227.

7) In that view of the matter, I hardly see any reason which warrants interference under Article 227 of the Constitution of India. Petition as such fails and same stands dismissed.

8) As a consequence, pending Interim Application also stands disposed of.

[NITIN W. SAMBRE, J.]