

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.1502 OF 2020**

Swanand Co-Op. Hus. Soc. Ltd. &amp; Anr.

.....Petitioners

Vs.

Umakant Laxmikant Joshi &amp; Anr.

.....Respondents.

Mr. Mutahhar Khan a/w Mr. Hemant Mehta i/by Mehta & Co. for the  
Petitioners.

Mr. G.N. Salunke a/w Mr. Rupesh Turbhekar i/by Praveen L. Singh for the  
Respondent No.1.

**CORAM : A. S. GADKARI, J.****DATE : 30<sup>th</sup> MARCH, 2022.****P.C.:-**

By the present Petition under Article 227 of the Constitution of India, the Petitioners, Original Respondents, in Dispute No.CC/IV/553 of 2017 have impugned Order dated 16<sup>th</sup> September, 2019 passed by the Appellate Bench of Co-operative Court at Mumbai, thereby granting interim relief in favour of the Respondent No.1 in terms of prayer clause (c) of Interim Application filed below Exh-5 in the said Dispute.

2           During the course of arguments and upon suggestion made by this Court, both the learned counsel appearing for the respective parties, expressed their consensus about a fact that, the Petitioner No.1-Society will conduct a fresh Special General Body Meeting (for short, "*the SGBM*") for seeking approval of its members for redevelopment of the building of

Petitioner No.1-Society. They also acceded to the suggestion and submitted that, the said SGBM will be conveyed under the supervision of Deputy Registrar, R/North Ward, Mumbai.

3           In view thereof, all the earlier Resolutions passed by the Respondent No.1 pertaining to the redevelopment of the building/s of the Petitioner No.1-Society are quashed and set aside and the Petitioner No.1-Society is directed to convene the *SGBM* within a period of three weeks from the date of uploading of the present Order on the Official Website of the Bombay High Court.

4           The Deputy Registrar, R/North Ward, Suburban District, Mumbai is directed to supervise the proceedings of the said *SGBM*. It is needless to mention that, the said *SGBM* will be convened and conducted as per the Model Bye-laws adopted by the Petitioner No.1-Society.

In the said *SGBM*, the members of the Petitioner No.1-Society present therein, will decide about the course of action for redevelopment of Petitioner No.1-Society.

5           In view of the above, the impugned Orders dated 16<sup>th</sup> September, 2019 passed in Appeal No.25 of 2019 by the Co-operative Appellate Court, Mumbai and the Order dated 16<sup>th</sup> November, 2018 passed below Exh-5 in Dispute No.553 of 2017 are set aside.

6           It is to be noted here that, Mr. Salunke, learned counsel for the Respondent No.1-Society on instructions, made a solemn statement before

this Court that, in case 70% or more members of the Petitioner No.1-Society grants approval for redevelopment of the Petitioner No.1-Society in a particular mode and/or manner, his clients would withdraw the Dispute No.553 of 2017 filed before the Co-operative Court, Mumbai. The said statement is accepted.

7           The parties herein are directed to produce the copy of the present Order before the Deputy Registrar, R/North Ward, Mumbai for its implementation.

8           Writ Petition is disposed off in the aforesaid terms.

**(A.S. GADKARI, J.)**

SANJIV  
SHARNAPPA  
MASHALKAR

Digitally signed by  
SANJIV  
SHARNAPPA  
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