

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION 8479 OF 2021

Emgee Green Co-operative Housing
Society Ltd.

... Petitioner

Versus

Municipal Corporation of Greater Mumbai
and Ors.

... Respondents

Mr. Nitin Gangal a/w Mr. Jash B. Vyas for the Petitioner.

Mr. Om Suryavanshi for the Respondent 1.

Mr. Mayur Khandeparkar a/w Minal Chandnani, Jairam Chandnani,
Tanvi Mehta and Ashish Gupta i/by Laxim Associates for the
Respondent 2.

Vedchetan Patil a/w Sunayana Kashid i/by Ashwini Landage for the
Respondents 3 to 5.

**CORAM: ROHIT B. DEO, J.
DATE : 22nd JUNE, 2022**

P.C. :-

. The challenge is to the order dated 1st December, 2020 rendered by the learned Ad-hoc Judge, City Civil Court whereby Notice of Motion 414 of 2020 in Suit 4418 of 2011, is rejected.

2. It would not be necessary to make an elaborate reference to the averments and the ground in the present petition which is instituted by the Emgee Green Co-operative Housing Society Ltd. (for short 'Society') who is the plaintiff in Suit 4418 of 2011. Neither is it necessary to refer to the counter narrative or to all the reasons recorded in the order impugned.

3. Suffice it to note, that the City Civil Court has observed thus :-

“17. The aforesaid grounds upon which plaintiff is relying are all relating to the election of committee members, conduct of the special general body meeting, management or business of the plaintiff society. Therefore, the grievance of plaintiff is with respect to the aforesaid facts of the election of committee members, conduct of the special general body meeting, management or business of the plaintiff society. It is well settled law that if there is a dispute of society, its committee, any past committee, any past or present member of the society touching the constitution, election of committee members, conduct of general meetings, management or business of society, the same has to be dealt under Sec.91 of the Act. There is bar u/sec.163 r/w Sec.91 of the Act to deal with such dispute by Civil Court.”

4. In view of the observations in paragraph 17 of the order impugned, the learned counsel for the petitioner submits that this petition may be disposed of as withdrawn with the observations that if the petitioner institutes dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960, the same shall be adjudicated by the Co-operative Court on its own merits and uninfluenced by any observations in the order impugned.

5. The submission is reasonable and subject to such clarification, the petition is disposed of as withdrawn.

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[ROHIT B. DEO, J.]