

Sonali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 572 OF 2022
IN
WRIT PETITION NO. 6783 OF 2017**

Ashok Nagar Building No.4, Cooperative ...Applicant
Housing Society Ltd

Versus

Deputy Registrar, R North Ward & Ors ...Respondents

None, for the Applicant.

Mr PG Sawant, AGP, for the Respondent-State.

**CORAM G.S. Patel &
Madhav J. Jamdar, JJ.**

DATED: 15th March 2022

PC:-

1. On the last occasion, 9th February 2022, none appeared for the Applicant. We made the following order:

“1. This is an Interim Application in a Writ Petition in which a Division Bench made an order on 23rd June 2017 inter alia granting ad-interim relief in terms prayer clause (b) of the Petition. That stayed the election process of the Petitioner Society which was then scheduled for 25th June 2017.

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2. The Petition was affirmed by one Harsha Haridas Nayak an authorised signatory of the Petitioner Society. This IA seeks an order in contempt against the Deputy Registrar, the authorized officer and the returning officer. It is filed ostensibly in the name and only in the name of the society, but the IA is verified by one Mary Antony Valooran. She claims to be the Petitioner (page 11), but she is not. There is nothing to show how she has been authorized by the society to file such a IA in the name of the society. There is no Power of Attorney. There is no general body or managing committee resolution. It also appears that in she has made several complaints of her own and there is correspondence between the society and Ms Valooran including a notice under Rule 29(1) of 4th December 2018 at 'Exhibit J' to the IA.

3. We find that there is an election process that is said to be under way and that a notice conveying a special general body meeting has been issued on 13th January 2022. The notice is to be held on 13th February 2022 at 9.30 am.

4. We are informed that Ms Valooran is also contesting this election.

5. We do not claim to be able to understand from what is presented to us today how any election can be held in breach of the High Court Division Bench order dated 23rd June 2017.

6. Having said that, we are not satisfied that the IA presents a complete or even a accurate picture of the record and facts. We decline to grant any ad-interim relief at the instance of this person, Ms Valooran, particularly since we are not satisfied about her authority to file such an IA in the name of the society and for and on its behalf. Mr Sawant states that he needs to take instructions. We will grant him that time.

7. Last but not least we note that the application is filed through Advocate Marium Nizam apparently on a vakalatnama signed by Ms Valooran. The Petitioner was initially represented by Ms Geeta Mulekar. We now find that there is a No Objection given by Ms Mulekar to Marium Nizam Advocate. The No Objection is counter-signed by the same Mary Antony Valooran ostensibly as an authorised signatory of the Petitioner. This brings us back to a question of what is the authorisation in favour of Valooran by the society and when it was granted to her and by whom. Unless this is disclosed and made clear, we decline to proceed further in the matter for urgent reliefs today. A reply is to be filed and served on or before 2nd March 2022.

8. The Advocate for the Applicant tried to mention the matter in the morning saying that it was unlikely to reach because it is listed at Sr. No. 985. We assured him that his lack of confidence in this Court was entirely unwarranted. The matter was called at 3.15 pm. But there is evidently some problem with Advocate's connection: after a brief mention of his appearance he is no longer online."

2. Today too, there is nobody present for the Petitioner. As we noted on the last occasion, we do not know how Ms Mary Antony Valooran can singly claim to represent the society. There are clearly disputes between society members. She does not have the necessary authorisation from the Society. This has not been made clear despite our observations in paragraph 7 of our previous order. The elections to the society's managing committee are needlessly held up as a result of all this.

3. We dismiss the IA and along with that we dismiss the Writ Petition.

(Madhav J. Jamdar, J)

(G. S. Patel, J)