

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 3014 OF 2022**

Bhopender Khanchand Pamnani .... Petitioner.  
V/s  
The State of Maharashtra and Ors. .... Respondents.

Mr. Kunal Bhanage i/b Mr. Wasim Siddiqui for the Petitioner.  
Mr. P.P. Pujari, AGP for Respondent Nos. 1 and 2.  
Mr. Raj Patel a/w Sayeed Y. Mulani a/w Shobhana Waghmare & Nitin Kaskar i/b Mulani & Co. for Respondent No.3.

**CORAM: NITIN W. SAMBRE, J.**

**DATE: JULY 01, 2022**

P.C.:-

1] Heard.

2] Petitioner is invoking writ jurisdiction of this Court under Article 227 of the Constitution of India questioning the order dated 6/1/2022 passed by Respondent No.1 – State Government, order dated 15/1/2009 passed by Respondent No.2 i.e. Divisional Joint Registrar, Co-operative Societies, whereby prayer of the Petitioner for cancellation of the registration of Respondent No.3 – Society came to be rejected.

3] Facts necessary for deciding present Petition are as under:-

4] One M/s Jeevan Development Corporation a partnership firm of which Petitioner was one of the partners had constructed a building and sold around 10 flats. Aforesaid 10 members formed together a Society which is registered as Respondent No.3. Registration of the said Society was ordered on 16/1/1987 of which Petitioner is seeking cancellation pursuant to the provisions of Section 21-A of the Maharashtra Co-operative Societies Act (hereinafter referred to for the sake of brevity as “the Act”). Petitioner sought cancellation on the ground that number of members shown are less, so also the area of construction. It is also claimed by the Petitioner that stamp duty was not paid, so also agreement was not registered. Five owners of the flats are shown to be members in spite of the fact that the Promoter has shown 10 members from the five families related to him. It is also claimed that completion certificate is not placed on record. As such, it is claimed that registration was obtained by suppression of material information or furnishing false information in relation to the status of the ownership of the land, number of flats etc.

5] The prayer of cancellation of registration was initially rejected by Respondent No.2 – Divisional Joint Registrar vide his reasoned order dated 15/1/2009. Feeling aggrieved, Petitioner has approached the State Government in its appellate jurisdiction under Section 154 of the Act. The appeal also came to be dismissed.

6] I have heard respective Counsel at length.

7] It is the contention of Counsel for the Petitioner that since the registration was obtained either by suppressing material information or by furnishing false information, same is liable to be set aside. It is also claimed that minimum members required were not available and as such order of issuing registration certificate needs to be set aside by cancelling registration. Counsel for the Petitioner so as to substantiate his contention has invited my attention to the contentions considered in both the impugned orders and findings recorded thereon. According to him, the order impugned passed by the State Government goes contrary to the very directions of this Court issued in Writ Petition No. 9759 of of 2010, so also order of the Apex Court.

8] While countering aforesaid submissions, Counsel for Respondent No.3 would urge that Petitioner lacks locus to even move for cancellation of the registration. He would also invite my attention to the order of this Court dated 16/3/2020 passed in Writ Petition No.9759 2010 so also order of the Apex Court in SLP No. 5725 of 2021 delivered on 8/7/2021. According to him, State Government as was directed by this Court considered all facets of the matter and rightly passed the reasoned order.

9] I have appreciated said submissions.

10] Fact that registration of Respondent No.3 – Society was granted on 16/01/1987 is admitted. It is also not in dispute that the building in relation to which registration was granted to Respondent No.3 –

Society was developed by M/s Jeevan Development Corporation, a partnership firm of which the Petitioner was a partner. As such, under the provisions of Maharashtra Ownership Flats Act, 1963 (For short "MOFA, 1963"), it is the responsibility of Developer/Builder/Promoter to register the Co-operative Society. As such, it cannot be said that the Petitioner was not having knowledge about registration of the Society as on 16/1/1987. Petitioner has not given any reason as to why he has approached the Authority for cancellation of registration at much belated stage i.e. almost after lapse of more than 15 years.

11] Apart from above, it is brought to my notice that Petitioner has suffered proceedings under Section 101 of the Maharashtra Co-operative Societies Act at the behest of Respondent No.3 – Society as the Petitioner has failed to pay maintenance charges.

12] Out of total 14 flats, 10 flats were sold by the Developer/Builder and remaining 4 flats are in the possession of Court Receiver of High Court of Bombay. As regards disclosure of the area qua construction carried out is concerned, in my opinion, same will have hardly any bearing over the issue of registration as is rightly so noted by the State Government in its order impugned.

13] Apart from above, this Court is also required to be sensitive to the fact that at the behest of the Petitioner, First Appeal No.822 of 2012 appears to have been initiated. It appears that S.C. Suit No. 4180 of 2007 was initiated by Respondent No.3 under the provisions

of MOFA, 1963 for registration and enforcement of statutory obligations. In the said proceedings, claim put-forth by the Petitioner was that the aforesaid partnership firm was unregistered. In the said proceedings, learned Single Judge of this Court has made following observations in para 4 of the order dated 7/11/2014 passed in Civil Application No.3598 of 2009 in First Appeal No.822 of 2012, which read as under:-

“4..... The partnership firm or the partners of the partnership firm have entered into an agreement with the flat purchasers under MOFA and these agreements of sale of the flats are registered agreements under section 4 of the MOFA.....”

14] In this backdrop, in my opinion, the contention put-forth by the Petitioner that registration needs to be cancelled pursuant to the provisions of Section 21A of the Maharashtra Co-operative Societies Act is not at all established. Rather, orders impugned have in detail dealt with contentions raised by the Petitioner so also his locus.

15] As such, no case for interference with the orders impugned in extraordinary jurisdiction is made out. Petition as such fails and same stands dismissed.

( NITIN W. SAMBRE, J. )