

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 3702 OF 2019**

Maha. Police Co-op. Housing Federation Ltd. .. Petitioner

Versus

Saraf Choudhari Nagar Co-op. Hsg. Soc. Ltd. and

Ors.

.. Respondents

.....

- Mr. V.S.Kapse i/by Nikhil Rajeshirke for Petitioner
- Mr. Vivek Walawalkar i/by Abhijit Gosavi a/w. Mr. Shailesh Chavan for Respondent Nos. 9 to 17
- Mr. Mandar Limaye i/by S.S. Aradhye a/w. Ms. Gauri Velankar for Respondent Nos. 1 to 4
- Mr. Sachin Kankal, AGP for Respondent Nos. 5 to 8

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CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 16, 2022.

P.C.:

1. Heard learned Advocates for the respective parties.
2. Today Minutes of order dated 16.12.2022 signed by Advocates for Petitioner, Respondent No.1 to 4 and Respondent No.9 to 17 are tendered and taken on record. They are marked "X" for identification.
3. On 12.12.2022, this Court passed the following order:
 - "1. Heard learned Advocates for the respective parties.
 2. As informed to the Court, 10 out of the 14 Societies are ready for redevelopment. There are certain issues which are required to be looked into. The 4 reluctant Societies are now represented by Mr. Limaye and Mr. Aradhye (learned Advocates for Respondent Nos.1 to 4) before the Court. This Court had directed both Advocates to use their good offices to see if the said Societies bury their differences and participate in the redevelopment.
 3. Admittedly, the redevelopment is at the behest of Federation. One

of the grievance mentioned by Mr. Limaye is effective representation of the 4 reluctant Societies in the Federation. Mr. Walawalkar and Mr. Kapse both inform the Court that in so far as effective representation is concerned and disclosure of any other issues to the said Societies are concerned, they are open to the same.

4. In view of the above, this Court makes it clear that unless and until the 4 reluctant Societies point out perversity in the actions of the Petitioner, this Court will be reluctant to cancel the registration. This observation is however *prima facie*, and subject to hearing the objectors.

5. At the joint request of all learned Advocates for respective parties, stand over to **16th December, 2022**. In the meanwhile, ad-interim relief, if any, granted earlier to continue.

6. For the above reasons the 9 Interim Applications of the Societies for impleadment are allowed.

7. Interim Application Nos. I.A.No. 30032 of 2022, I.A.No. 30028 of 2022, I.A.No.30031 of 2022, I.A.No. 30036 of 2022, I.A.No. 30030 of 2022, I.A.No. 30029 of 2022, I.A.No. 30034 of 2022, I.A.No. 30033 of 2022 and I.A.No. 30035 of 2022 are disposed of in terms of prayer clause (a) which is identical in all Applications and reads thus:

“(a) Allow the Applicant to intervene in the present matter and be further pleased to direct the Petitioner to join the Applicant as a party respondent to the present writ petition,”

8. Necessary amendment to be carried out by tomorrow.

9. Re-verification is dispensed with.

10. Copy of the amended cause title shall be provided to the Respondents before the next date.”

4. Learned Advocates appearing for all parties inform the Court that have reconciled their differences and arrived at settlement and urged the Court to pass order in terms of the Minutes of Order.

5. Principal contesting Respondents – Societies, viz. Respondent No.1 to 4 are represented through their authorised office bearers as under:-

- i. Respondent No.1 – Pandurang Ramchandra Kanade-Chairman;
- ii. Respondent No.5– Jayprakash T. Ghadigaonkar – Secretary;

iii.Respondent No.3 – Vinod Anandrao Mahadik – Treasurer;

iv.Respondent No.4 – Ashok T. Rajan – Chairman.

6. That apart, authorised representatives / office bearers of Respondent Nos. 10 to 17 are present in Court today before me as under :

- i. Respondent No. 10 – Chetana Mahesh Panchal-Treasure;
- ii. Respondent No.11- Rupesh Suresh Ghidigaonkar – Secretary
- iii. Respondent No.12 – Arun Shamrao Sawant – Chairman and Sunil Rajaram Ayare – Secretary
- iv. Respondent No.13 – Surendra Narayan Shinde – Secretary
- v. Respondent No.14 – Sailesh Daulatbhai Rathod - Chairman;
- vi. Respondent No.15 – Tanaji Dhondiba Katkar – Secretary;
- vii. Respondent No. 16 – Himmatrao Bhika Patil – Chairman
- viii. Respondent No. 17 – Suvarna Amol Athnikar – Treasurer

7. On behalf of Respondent Nos. 5 to 8, it is stated that they support the Petitioner and are in favour of redevelopment.

8. On behalf of Petitioner – Federation, Shashikant Ramchandra Hardikar – Director is present.

9. All the aforementioned office bearers of the parties present in Court have entered into the witness box and informed the Court that their respective Societies have agreed to settle and compromise the issue relating to redevelopment and have accordingly given instructions to their Advocates in terms of the Minutes of Orders signed by the Advocates and tendered today. They have stated that

the Societies confirm, agree and conform to what is stated in the Minutes of Order dated 16.12.2022.

10. It is clarified that all parties shall abide by the undertakings given in the Minutes of Order dated 16.12.2022 as undertakings given to this Court. The copy of the Minutes of Order dated 16.12.2022 is taken on record and marked "X" for identification.

11. Hence the following order :

1. Rule made returnable forthwith by consent of the parties.

The respective parties waive service through their respective advocates on record.

2. The Petitioner is the Federation formed and registered vide registration certificate / order dated 16.03.1998 having jurisdiction of entire state of Maharashtra registered with the object of providing affordable housing to its members.

3. The formation of the Federation was instituted by 5 out of 13 Societies formed under the order of bifurcation dated 04.11.1997, the Deputy Registrar, C.S. MHADA vide corrigendum dated 19.05.1998 has entrusted them with the management of the common amenities (**Exh. F page No. 67-68**).

4. The respondent Nos. 1 to 4 being similarly placed Societies are disputing the validity of the said

corrigendum as well as the registration of the Federation and the same is the subject matter before the Ld. Minister, Cooperation, State of Maharashtra in Revision Application No. 200 of 2018 preferred by the Respondent Nos. 1 to 4.

5. For the better prospects, all 14 Societies have floated the idea of redevelopment of the larger plot and near about 875 out of 941 members have principally showed its willingness to joint the redevelopment project.
6. The Petitioner Federation vide its letter dated 01.08.2021 and 10.05.2022 has consented for the redevelopment and further showed its willingness to hand over the possession of the common amenities to the newly appointed Federation. The Petitioner Federation has further clarified that the Petitioner Federation will not interfere with the ongoing redevelopment process and shall continue with its other affordable housing projects across the state of Maharashtra excluding City Survey No. 755-C and 755-E of Kandivali Division.
7. As far as issue of Redevelopment of Societies is concerned, all 14 Societies shall come together and form a Federal Body. The Petitioner will have no role to play in the process of redevelopment and all decisions in respect of the redevelopment shall be taken by the newly proposed

Federal Body of 14 Societies. At the time of renewal of Lease, the Petitioner's consent / permission shall not be required as the same will be done by the newly proposed Federal Body. The Respondent No.1 to 4 shall have proper and fair representation in the said proposed Federal body at par with other Societies.

8. Common property/Common Amenities of the 14 Societies which at present under the control and supervision of the Petitioner shall be handed over on registration of newly proposed Federal Body unconditionally. The description of the property is mentioned in Article Nos. 1 to 11 of the Letter dated 31/12/1998 issued by the Office of the Deputy Registrar, more particularly common property standing on City Survey No. 755-C and 755-E of Kandivali Division.
9. As per clause No.9 of the order dated 04/11/1997, Common Amenities of the Society shall remain under control, possession, and supervision of the Federal Body of the 14 Societies and the Petitioner will not have control/interference/supervision of whatsoever in nature in respect of the said Common Amenities. The possession of the said Common Amenities shall remain exclusively with then newly established Federal Body of the 14

Societies.

10. There shall be a Federal Body of all 14 Societies of Saraf Choudhari Nagar having equal representation of each Society and the Petitioner Federation will not be a part of newly formed Federal Body and will not have any control of whatsoever in nature in the affairs/functioning of the newly formed Federal Body. All decisions/Policy decision/s shall be taken by the newly formed Federal Body of the 14 Societies.
11. In view thereof, the Respondent No. 8 is directed to register the said proposed Federal body of 14 Societies pursuant to the application preferred thereof and preferably within the period of 3 months from today.
12. On the registration of the said proposed Federal body, the Petitioner Federation shall handover the possession of the common amenities situated on survey No. 755-C and 755-E of Kandivali Division as listed in Corrigendum dated 31.12.1998 and more particularly mentioned in Article Nos. 1 to 11 issued by the Learned Deputy Registrar, C.S. MHADA to the said proposed Federal body on "As is where is basis".
13. The existing office premises of the Petitioner (A-5, Gala Nos. 51, 52 and 53) shall be handed over to the proposed

Federal body on its registration or within 3 months from the date of this order whichever is earlier.

14. Since the Petitioner Federation is formed with the larger objective of implementing the affordable housing projects within the State of Maharashtra for more than 1000 individual members, and is in fact presently doing so, the deregistration of the Petitioner Federation will adversely affect its objects. The Respondent Societies hereby record their no objection of whatsoever nature for the registration and continued existence of the Petitioner Federation and further undertake that the Respondent Societies shall not raise any objection as to the said registration and existence of the Petitioner Federation in future.

15. The Petitioner Federation as well as Respondent Societies shall withdraw all complaints, applications, cases, allegations filed against each other and further record that the Petitioner Federation shall continue its functioning on its original registration certification dated 16.03.1998 for rest of Maharashtra excluding City Survey No. 755-C and 755-E situated at Kandiwali Division.

16. In view of the same, the order dated 27.02.2019 as passed by the Learned Minister, Co-operation, State of

Maharashtra in Revision Application No. 200 of 2018 is hereby set aside and the corrigendum dated 19.05.1998 stands modified to the aforesaid extent.

17. In view of the above, the above Writ Petition stands disposed of with no order as to costs.

[MILIND N. JADHAV, J.]

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