

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1359 OF 2022**

Anjani Hrudaynath Patil and others] **Petitioners**
Vs.
Blue Heaven Co-op. Housing]
Society Ltd. and others.] Respondents
a/w

WRIT PETITION [STAMP] NO.12472 OF 2021

Janabai Shripat Patil and others.] Petitioners
Vs.
Blue Heaven Co-op. Housing]
Society Ltd. and others.] Respondents

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Mr. Atul Damle, Senior Advocate a/w Mr. Omkar Kulkarni, for
Petitioner in W.P. No.1359 of 2022 and Respondents No.6A to 6C
in Writ Petition (Stamp) No.12472 of 2021.

Mr. N.V. Walawalkar, Senior Advocate i/b Mr. Somnath Iyer, for
Respondent No.1 in Writ Petition No.1359 of 2022 and Writ
Petition (Stamp) No.12472 of 2021.

Mr. P.P. Pujari, A.G.P, for Respondent -State.

Mr. Nishant Tripathi i/b M/s. Tripathi & Co., for Respondent No.2
in Writ Petition No.1359 of 2022 and Writ petition (Stamp)
No.12472 of 2021.

Mr. Girish Godbole i/b Mr. Chinmay Acharya, for Petitioners in
Writ Petition [Stamp] No.12472 of 2021 and for Respondents
No.5(a) to 5(d) in Writ Petition No.1359 of 2022.

Mr. Siddharth Shitole i/b Mr. Ashutosh Kulkarni, for Respondent -
CIDCO.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 30th November, 2022.

P.C.

1. Learned Counsel for the parties have tendered minutes of draft order dated 30th November, 2022 today across the bar. The same are taken on record and marked 'X' for identification.

2. Minutes of draft order tendered by the learned Counsel for the parties read thus;

"1. Rule. By consent Rule made returnable forthwith and the Petitions are taken up for final hearing at the stage of admission.

2. The learned Counsel for the respective Respondents waive service.

3. Both the Petitions challenge the order dated 20th May 2021 passed by the Respondent No.4 i.e the Jt. Registrar Co-operative Societies (CIDCO) in Appl. 561 of 2019. The Petitioners in Writ Petition No.1359 of 2022 and Writ Petition (Stamp) No.12472 of 2021 are the respective legal heirs of the deceased original lessees Shri Ambo Balya Gadge and Shri Shripat Laxman Patil.

4. *Shri. Ambo Gadage and Shri Shripat Patil, the original lessees, were dead on the date of the order dated 20th May, 2021 passed by Respondent No.4 in Application No.561 of 2019 filed by the Respondent No.1 Society. The Petitioners are the respective legal heirs of the said deceased lessees.*

5. *In view of the fact that the impugned order has been passed against the dead persons, by consent of the Petitioners and Respondents No.1 and 2 in the respective Petitions, the impugned order dated 20th May 2021 passed by the Respondent No.4 i.e the Jt. Registrar Co-operative Societies (CIDCO) in Appl. 561 of 2019, is set aside. By consent of parties, the said Application is remanded back to the Respondent No.4 to be heard and decided afresh on its own merits and in accordance with law.*

6. *All the Parties to the above Writ Petitions will appear before the Respondent No.4 on 8th December, 2022, without any fresh notice. The parties are at liberty to place on record copy of the order of this Court, and thereafter appear before him on the dates fixed by him for hearing of the said Application.*

7. *The Respondent No.1 Society shall bring the legal heirs of the deceased lessees i.e the Petitioners above named on record in the said Appl. 561 of 2019 within a period of one week from today. The said heirs will appear in the proceedings of the said Application and no fresh notices to them will be necessary. The said heirs are at liberty to file their replies opposing the said Application with supporting documents as they may deem fit. All contentions of the said Respondents including maintainability of the application are expressly kept open to be agitated before the said Respondent No.4. The Respondent No.4 shall not be influenced by the impugned order dated 20.05.2021, the earlier order dated 05/08.07.2019 in Application No.561 of 2019, the order of this Court dated 30th January, 2020 in Writ Petition No.11786 of 2019 as also this order.*

8. *The Respondent No.4 shall thereafter hear and decide the said Application afresh on its own merits within a period of two months from today and immediately communicate its Order to all the parties. All the parties to co-operate with the Respondent No.4 in hearing of the said Application and for its expeditious disposal within the time fixed by this Court.*

9. *The Ad-interim order dated 18th June, 2021 passed by this Court in W.P. No.1359 of 2022 shall remain in operation till the decision in the above said Application and for a period of two weeks thereafter.*

10. *Since the impugned order dated 20.05.2021 is set aside, the Conveyance executed on the basis of the said order shall not be acted upon during the pendency of the said Application and for a period of two weeks after the said Application is decided and shall abide by the final outcome of the said Application No.561 of 2019".*

3. Both the Writ Petitions are disposed of in terms of aforesaid minutes of draft order. There is no order as to costs.

[PRITHVIRAJ K. CHAVAN, J.]