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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6142 OF 2022

Suresh Abaji Jagtap

.... Petitioner.

V/s

The Divisional Joint Registrar
Co-op. Soc., Mumbai and Ors.

..... Respondents.

Mr. Vishal Raman i/b Mr. Sunil A. Humbre a/w Mr. Sandeep Wasnik
for the Petitioner.

Mr. V.M. Mali, AGP for Respondent-State.

Mr. Anil Kumar Patil a/w Mrs. Nagda for Respondent No.4-Society.

Mr. Avirat Gholap i/b Bakul Vyas for the Interveners.

**CORAM: NITIN W. SAMBRE &
ANIL L. PANSARE, JJ.**

**DATE: MAY 17, 2022
(Vacation Court)**

P.C.:-

1] This Petition is by a member of the Respondent-Society with the
following prayer :-

(a) that this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other writ, order or direction, ordering and directing Respondent No.2 to forthwith prepare and declare a fresh voters list of the members of Respondent No.4 excluding the name of the said 950 persons (highlighted in Exhibit 'N' hereto);”

2] In the backdrop of the pleadings and prayer in the Petition, Mr. Anil Patil, Counsel for Respondent No.4-Society raised a preliminary objection on the maintainability of the present Petition. He has relied on the Division Bench Judgment of this Court in Writ Petition No.5878/2021 decided on 26/11/2021.

3] According to him, Petitioner has an alternative remedy under Section 91 of the Maharashtra Cooperative Societies Act, 1960 read with Rule 78 of the Rules framed thereunder. He would further urge that since the Division Bench has already held that preparation of voters list is a part of the intermediate stage of election process, this Court should not show indulgence under Article 226 of the Constitution of India. He would urge that election process has

travelled at an advance stage and the scrutiny of nomination papers is in progress.

4] While responding to aforesaid submissions, Counsel for the Petitioner would urge that the issue in the Petition is altogether different and can be distinguished on facts. He would try to demonstrate the same based on pleading which led in deciding the Writ Petition No.5878 of 2021.

5] We have appreciated the said submissions.

6] The fact that election process in the matter is already commenced as the election programme has advanced upto the stage of scrutiny of nomination papers certainly justifies the objection of Counsel for Respondent No.4 that election process in the matter has already commenced.

7] Apart from above, it can be noticed from the observations of Division Bench of this Court in Writ Petition No.5878 of 2021 decided

on 26/11/2021 that the issue canvassed herein is squarely covered by the said judgment. Petitioner has an alternative remedy under Section 91 of the Maharashtra Cooperative Societies Act of taking out dispute in relation to the issues canvassed in the Petition.

8] In our opinion, no interference is called for in the election process at this stage. Petition as such fails and same stands dismissed with liberty to the Petitioner to take recourse to the remedy referred above.

(ANIL L. PANSARE, J.)

(NITIN W. SAMBRE, J.)