

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

KANCHAN
VINOD
MAYEKAR

Digitally signed by
KANCHAN VINOD
MAYEKAR
Date: 2022.11.30
11:09:28 +0530

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13387 OF 2022

**M/s.Gamisons And Barvadiya Realty
Private Limited**

..... Petitioner

VERSUS

State of Maharashtra & Ors.

..... Respondents

Mr.G.S.Godbole, a/w. Mr.Dharam Sharma, Ms.Uma Sharma, i/b.
Dharam & Co. for the Petitioner.

Mr.Vasant S.Gokhale, 'B' Panel Counsel for the Respondent nos. 1 and
6.

Mr.Akshay Shinde for the Respondent nos. 2 to 4 – MHADA.

Mr.Rasesh Shah, i/b. Ms.Lalita Satam for the Respondent nos. 8 to 22.

Mr.Rohit Mahadik, i/b. Mr.Amogh Karandikar for the Respondent
no.7.

**CORAM: R. D. DHANUKA AND
S.G.DIGE, JJ.**

DATE : 25TH NOVEMBER, 2022

P.C:-

Rule. Learned 'B' Panel counsel waives service for the
respondent nos.1 and 6. Mr.Shinde, learned counsel for the respondent
nos. 2 to 4 waives service. Learned counsel for the respondent no.7
waives service. Learned counsel for the respondent nos. 8 to 22 waives

service. Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the minutes of the meeting held between the petitioner and respondent no.4 on 20th October, 2022 and further seeks a directions against the respondent nos. 2 and 3 to issue an IOA.

3. It is the case of the petitioner that the petitioner was appointed as a developer in the Special General Body meeting of the respondent no.7 on 2nd September, 2018 and has already entered into a development agreement with the society. It is the case of the petitioner that the petitioner has already paid a premium of Rs.4 crores and Rs.1,17,25,220/- to MHADA for development of the said property of the respondent no.7.

4. It appears that some of the members have made a complaint to the respondent no.4 – MHADA against the petitioner and as a result thereof the respondent no.4 has directed the Registrar of Co-operative Society to convene a meeting by exercising powers under section 79A

of the Maharashtra Co-operative Societies Act, the same direction that is impugned by the petitioner in this petition.

5. Mr.Godbole, learned counsel for the petitioner vehemently urged that the petitioner was already appointed by the respondent no.7 society as a developer and the development agreement was already entered into between his client and the respondent no.7 society. Even if, there are any complaints made by the members of the respondent no.7 society, the respondent no.4 could not have conveyed or could not have directed the Registrar to convene a meeting by exercising powers under section 79A of the Maharashtra Co-operative Societies Act.

6. Mr.Shinde, learned counsel for MHADA submits that in view of the complaints received from a large number of members of the respondent no.7 society, MHADA had issued such order to the Registrar to convene a meeting by exercising powers under section 79A of the Maharashtra Co-operative Societies Act. Learned counsel could not point out any such provision which would empower MHADA to direct the Registrar of the Co-operative Societies to convene such a meeting. Learned counsel appearing for the contesting

respondents also could not point out any such provision empowering respondent no.4 to convene or to direct the Registrar of the Co-operative Societies to convene such a meeting. In our view, section 79 could not have been invoked by the respondent no.4 by directing the Registrar of the Co-operative Societies to convene such a meeting. The impugned order annexed at Ex.A is accordingly quashed and set aside.

7. It is made clear that this Court has quashed and set aside the directions issued by the respondent no.4 only on the ground of jurisdiction. This order does not preclude the members of the respondent no.7 society to call for a meeting which was directed to be convened by the respondent no.4 in accordance with the provisions of the bye-laws of the respondent no.7 society and the provisions of the Maharashtra Co-operative Societies Act read with its Rules.

8. We are informed that an administrator has been appointed to take charge of the affairs of the respondent no.7 society. The learned administrator states that he will advise the members of the society for the purpose of convening a meeting expeditiously. Statement is accepted.

9. Writ petition is allowed in the aforesaid terms. No order as to costs.

[S. G. DIGE, J.]

[R. D. DHANUKA, J.]