

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8122 OF 2021
WITH
INTERIM APPLICATION NO. 10272 OF 2022
IN
WRIT PETITION NO. 8122 OF 2021

Shri. Navvinayak Co-operative Housing
Society Limited through Chairman
S. C. Changediya ...Petitioner
V/s.
Sau. Anjali Anil Bhatvadekar & Ors. ...Respondents

WITH
WRIT PETITION NO. 7970 OF 2022
WITH
INTERIM APPLICATION NO. 17231 OF 2022
IN
WRIT PETITION NO. 7970 OF 2022

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Shri. Navvinayak Co-operative Housing
Society Limited through Chairman
S. C. Changediya ...Petitioner
V/s.
Shri. Mandar Suresh Bhatvadekar & Ors. ...Respondents

Mr. Girish Godbole i/b. Mr. T. D. Deshmukh a/w. Mr. H. D.
Chavan & Mr. Sagar Kursija, for the Petitioner in WP/8122/2021
& WP/7970/2022

Mr. V. S. Kapse, for the Respondent No.1.

Ms. V. S. Nimbalkar, AGP for the Respondent Nos.2 & 3/ State.

CORAM : C.V. BHADANG, J.
DATE : 3 OCTOBER 2022

P.C.

. Heard the learned counsel for the parties for some time.

2. The Petitioner – Society has challenged the order passed by the Deputy Registrar purportedly under Section 79(2) of the Maharashtra Co-operative Societies Act, directing the Petitioner to issue a No Objection Certificate (NOC) for transfer of the plots as sought by the Respondent No.1. The Petitioner had unsuccessfully challenged the said order in an appeal under Section 152 of the said Act before the Divisional Joint Registrar of Co-operative Societies, Pune City, Pune, where the appeal is dismissed.

3. The learned AGP has raised a preliminary objection as to the maintainability of the petitions on the ground of availability of a remedy of revision application under Section 154 of the said Act, which submission is countered on behalf of the Petitioners on the ground that the impugned order is *ex facie* without jurisdiction. It is submitted that such a direction for issuance of the NOC cannot be granted in exercise of the powers under Section 79(2) of the said Act.

4. The learned counsel appearing for the Respondent No.1 points out that in pursuance of subsequent orders passed by the Co-operative Authorities, NOCs stood granted and lease deeds have been executed by the Respondent No.1 in these petitions in favour of the third parties which have been duly registered. It is submitted that thus already the impugned orders have been implemented and third party rights are created and those third

parties are not arrayed in these petitions. He also submitted that the NOC was refused by the society only on the ground of certain arrears of maintenance etc. and not on the ground that plots were not allotted to the Respondent No.1.

5. Faced with this, the learned counsel for the Petitioners, on instructions, seeks leave to withdraw the petitions, as the Petitioners intend to take recourse to appropriate remedy against the impugned orders under Section 154 of the said Act.

6. In that view of the matter, the petitions are disposed of, as withdrawn, with no order as to costs. If the Petitioners filed revision applications under Section 154 of the Maharashtra Co-operative Societies Act challenging the impugned orders alongwith application for condonation of delay under sub-section 3 of Section 15, the Revisional Authority shall note the pendency of these petitions from 22 October 2019.

Subject to this, rival contentions of the parties, on merits as well as limitation, are left open.

7. Pending interim applications do not survive and are disposed of accordingly.

C.V. BHADANG, J.