

WRIT PETITION NO.3858 OF 2022

VS.

Mr. Rajesh Kachare a/w Mr. Amit Potnis i/b. M/s. Tamhane
and Company for petitioners.

Mr. V. A. Joshi i/b. M/s. Chitnis Vaithy and Company for
respondent nos.1 to 4.

Mr. Gauraj Shah i/b. Ashni Desai for respondent no.5.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 11, 2022.

P.C. :

1. Heard learned counsel for the parties.
2. After arguing the matter for some time and upon hearing the preliminary objections of the learned counsel for the respondent nos.1 to 5 to the maintainability of the proceedings before the Co-operative Court, the learned counsel for the petitioners realized that appropriate forum to challenge the Resolutions impugned before the Co-operative Court is by way of a Civil suit. I am informed that the petitioners have already filed a suit bearing No.9 of

2021 in this Court for various reliefs and even the reliefs prayed for before the Co-operative Court could form the basis of reliefs in the said suit considering that the issue under challenge before the Co-operative Court arises out of the same redevelopment. As the petitioners have undertaken to withdraw the dispute before the Co-operative Court, the challenge to the impugned order is rendered academic and inconsequential. In view of the statement that the dispute is being withdrawn, the impugned order is set aside, to enable the petitioners to withdraw the dispute before the Co-operative Court. I have not examined the impugned order on merits.

3. Liberty to the petitioners to withdraw the proceedings before the Co-operative Court and take up all the contentions raised before the Co-operative Court in the Suit No.9 of 2021. Learned counsel for the petitioners to make an appropriate application for amendment in Suit No.9 of 2021. Learned counsel for the respondent nos.1 to 5 assures that the application for amendment will not be opposed except raising legal challenge to the contentions in

the proposed amendments on merits after the application for amendment is allowed.

4. The writ petition is allowed to be withdrawn with the aforesaid liberty and disposed of accordingly. No costs.

(M. S. KARNIK, J.)