

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Civil Application (CAW) No. 1821 of 2017
in

Writ Petition No. 3626 of 2014 (D)

[The Southern Nagpur Cooperative Hsg. Soc. Ltd., Nagpur through its Secretary **..vs..** State of Maharashtra through its Secretary, Housing and Special Assistant Dept. and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. J. J. Chandurkar, Advocate for applicant/petitioner
Mr. M. K. Pathan, AGP for respondents 1 to 3
Mr. U. S. Dastane, Advocate for respondents 14 and 15
Mr. F. T. Mirza, Advocate for original respondent 16
Mr. K. A. Patil, Advocate h/f Advocate Mr. S. P. Bodalkar for respondent 17

CORAM : ROHIT B. DEO AND
ANIL L. PANSARE JJ.

DATED : 12-8-2022

This application is preferred seeking recall of orders dated 20-8-2015 and 7-9-2015 in Writ Petition 3626 of 2014 whereby and whereunder the petition came to be disposed of as infructuous. The order dated 20-8-2015 in particular refers to the deed of settlement tendered along with pursis filed by the petitioner on 13-8-2015.

2. This application is preferred on the premise that after 2-3-2015, the executive committee of the petitioner – society was not authorized to take any major decision in view of the resignation of 9 members and remaining executive committee members were also removed by the competent authority by order dated 20-4-2015. In

essence, the prayer for restoring the petition is predicated on the assertion that the then President and Secretary acted unauthorizedly and indeed illegally and placed on record the deed of settlement which they did not have the authority to execute.

3. We are not inclined to delve deeper since none of the respondents is objecting to the prayer for restoration of the petition. Mr. Firdos Mirza, who appears for the original respondent 16, states that while respondent 16 was earlier objecting, he has entered into an amicable settlement with the petitioner-society and, therefore, is not pressing his objection for restoration of the petition.

4. Learned counsel for respondent 14, Mr. Uday Dastane has serious objection to the very maintainability of the petition and submission is that the petition is vitiated by fraud. We would consider that objection at appropriate stage.

5. The civil application is allowed. Writ Petition 3626 of 2014 is restored to file and is fixed for final disposal on 24-8-2022.

(Anil L. Pansare, J.)

(Rohit B. Deo, J.)

Digitally signed by AVINASH
YUVRAJ WASNIK
Signing Date: 12.08.2022 18:09