

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 649 OF 2023

Sandhya Chandrakant Punekar

...Petitioner

Versus

The Secretary / President,
Eversweet Apt. Co-op. Hsg. Ltd. And Ors.

...Respondents

....

Mr.Sameer Tendulkar, Advocate for Petitioner.

Mr.Harsh Malhotra, Advocate for Respondent No.1.

Ms.K.N. Solunke, AGP for Respondent–State.

....

**CORAM : K. R. SHRIRAM &
RAJESH S PATIL, JJ.**

DATED : 15th FEBRUARY 2023

P.C.:

Petitioner's nomination was rejected for the election of the society of Eversweet Apartment Housing Society Limited on two grounds; (a) non payment of legal charges that society had to incur to challenge an action that petitioner had initiated pursuant to invoice dated 5th August 2022 amounting to Rs.22,167/-; and (b) a sum of Rs.30,000/-, paid to the Petitioner way-back in 2003–2004 which according to the society, Petitioner had to return.

2 At the outset, Mr.Malhotra raised an issue of jurisdiction of this Court and submitted that since this is a dispute between a member and a co-operative housing society, the exclusive jurisdiction vests only with the Co-operative Court under the Co-operative Societies Act. Mr.Malhotra also stated on instructions that the society will recall the demand of return of Rs.30,000/- which was paid to Petitioner way-back in 2003–2004.

3 At this stage, Mr.Tendulkar stated that Petitioner will, without prejudice to Petitioner's rights and contentions pay to the society the amount of Rs.22,167/- (as per the invoice raised on Petitioner) without interest within one week from today and take such further steps in accordance with law, as advised. Mr.Tendulkar says that if Petitioner is advised to file dispute before the co-operative Court, Petitioner be given liberty to approach the co-operative Court.

4 Accordingly, (a) statement of Mr.Malhotra recalling the demand of Rs.30,000/-, is accepted; (b) Undertaking of Mr.Tendulkar to pay the amount of Rs.22,167/-, albeit under protest, is accepted; (c) Petition disposed with liberty to approach Co-operative Court with regard to the amount of Rs.22,167/- being paid.

5 After the payments are made, Petitioner would be eligible to contest the election, unless there are certain other disqualifying events that has arisen in the meanwhile.

6 The society shall address a communication to Respondent No.2 to start the election process.

(RAJESH S. PATIL, J.)

(K. R. SHRIRAM, J.)