

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.- 3745 OF 2022

Jagruti Co-op. Hsg. Soc. Ltd

...Petitioner

Vs.

Pradeep Mahadeo Sabnis

...Respondent

Mr. N.N. Bhadrasheti i/b Ms. Priyanka Bhadrasheti, for
Petitioner.

Mr. Ashwin Shete, a/w Santosh Avhad i/b Jayakar and
Partners, for Respondent.

CORAM:- N. J. JAMADAR, J.

DATED:- 3rd AUGUST, 2023

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) The challenge in this Petition is to an order dated 22nd November, 2021, passed by the learned President Co-operative Appellate court, Mumbai in A.O. No. 23 of 2020, whereby the learned President was persuaded to partly allow the Appeal and restrain the petitioner-Society from issuing the bills with the alleged arrears of Rs.77,743/-, towards second car parking

charges against Flat No. A/23 and the Society was further restrained from treating the respondent-disputant as a defaulter.

3) When the matter was listed before this Court for hearing on 2nd August, 2022, the Court was persuaded to stay the order impugned herein. However, it was clarified that the dispute may proceed.

4) The learned Counsel for the respondent, on instructions, submits that the respondent is willing to deposit a sum of Rs.77,743/-, before the Co-operative Court and thereupon the third Clause of the impugned operative order not to treat the respondent-disputant as a defaulter be maintained.

5) Since the question of respondent-disputant being treated as a defaulter arises out of the dispute as to the liability to pay the arrears of Rs.77,743/- towards the second car parking charges in respect of Flat No. A/23 and now the respondent-disputant has shown willingness to deposit the said amount with the Co-operative Court, there is no impediment to continue the third Clause of the impugned operative order subject to deposit of the said amount.

6) Since the hearing in the dispute is stated to have progressed and the respondent-disputant has filed affidavit in

lieu of examination-in-chief, it may be expedient to request the Co-operative Court to decide the dispute No.150 of 2018 as expeditiously as possible and, preferably, within a period of nine months from 1st September, 2023, the next scheduled date in the dispute.

7) The Petition thus stands disposed by maintaining the Clause 3 of the impugned order that the petitioner-Society shall not treat the respondent-disputant as a defaulter subject to the respondent-disputant depositing the amount of Rs.77,743/- in the Co-operative Court on or before 31st August, 2023.

8) Upon deposit, the Co-operative Court shall, in turn, deposit the said amount in an interest bearing account and the said deposit shall abide the final outcome of the dispute.

9) The learned Judge, Co-operative Court is also requested to decide the dispute on its own merits and in accordance with law without being influenced by the observations in the impugned order as well as the observations made by this court as expeditiously as possible and preferably within nine months from 1st September, 2023.

10) The parties shall appear before the Co-operative Court on 1st September, 2023.

- 11) The Petition stands disposed.
- 12) No costs.

[N. J. JAMADAR, J.]