

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

**INTERIM APPLICATION NO. 2018 OF 2023
IN
WRIT PETITION NO. 8586 OF 2021**

Kharghar Co Hsg Societies Federation
Ltd. & Anr.

... Applicants/Petitioners

Versus

Municipal Commissioner Panvel Municipal
Corporation & Ors.

... Respondents

Mr. C. S. Joshi a/w Mr. B. C. Joshi for the Applicants/Petitioners.
Mr. Ashutosh Kumbhakoni, Senior Advocate a/w Mr. Kedar B. Dighe
for the Respondent No.1-Panvel Municipal Corporation.
Mr. Y. D. Patil, AGP for the Respondent Nos. 2 and 3.

**CORAM: G. S. KULKARNI &
R. N. LADDHA, JJ.**

DATE : 16th MARCH, 2023

PC. :-

. We have heard, Mr. Joshi, learned counsel for the applicants/
petitioners and Mr. Kumbhakoni, learned senior counsel for the
respondent-Municipal Corporation, on this interim application.

2. The prayers in the interim application are primarily that those
members of the federation who are willing to pay the Court fees be
permitted to be retained in the present proceeding and those members
of the federation who are not willing to pay the Court fees, be
permitted to be deleted. In this regard, there are two lists which are
annexed to the Interim Application List A and List B respectively, as

referred in prayer clause (a) and (b). By prayer clause (c), the applicants/petitioners intend to add the names of member societies who are ready and willing to pay the Court fees and as observed by the order dated 23 November 2022 passed by coordinate bench of this Court. Such order passed by a coordinate bench of this Court has referred to the objection as raised on behalf of the Municipal Corporation on the maintainability of the writ petition on behalf of the petitioner-federation assailing the demand of property tax by bills raised to individual societies and accordingly, keeping open the point of maintainability, the Division Bench directed the petitioners to deposit the Court fees on behalf of each of the individual and the societies for whose benefit the petition is filed. The office was directed to calculate the Court fees payable and the petitioners were directed to pay the same. In paragraph 5 of the said order, the Division Bench has categorically observed that as objection of maintainability of the petition would be considered after the Court fees are deposited. Accordingly, the present application has been filed.

3. Having heard the learned counsel for the parties and having perused the averments as made in the application, we are of the opinion, that the application needs to be allowed and the applicants/petitioners be permitted to deposit the deficit Court fees as ordered by this Court.

4. The application is allowed in terms of prayer clauses (a) to (f) which reads thus :

“(a) To allow to carry out amendment in the list of members of Applicant No. 1, annexed at Exhibit - 'A 1' page no. 18 to 23 of the

petition and to retain the member societies and individual members those who have paid the court fees in pursuance of Order dated 23.11.2022, as per List 'A'.

(b) To allow to carry out amendment by deleting the name of the member societies and individual members therefrom, who have not paid the court fees in pursuance of Order dated 23.11.2022 in the list of members of Applicant No. 1, from annexure Exhibit - 'A 1' page no. 18 to 23 of the petition, in the interest of justice as per list 'B'.

(c) To allow to carry out amendment by adding the name of the member societies and individual members therefrom, who are ready and willing to pay the court fees in pursuance of Order dated 23.11.2022 and who have approached to the Applicant No.1 Federation under protest and joined their hand in the fight against the illegal taxation policy of the opponent no. 1 as per list 'C'.

(e) To tender the detailed lists of members who have paid Court fee (List A and C) and not paid members (List B) in form of separate compilation.

(f) To amend the prayer clause (b) in the petition as follows:

To issue writ of mandamus or any other appropriate writ and cancel the bills and demand notices issued for levying retrospective tax since October, 2016 to 2021 - 2022 to individual members and societies of Petitioner No. 1, Federation as per List A and List C, for those who have paid court fees amounting to Rs. 36,76,625/-."

5. The Court fees be accordingly deposited on or before 20 March 2023.

6. Amendment be also carried out to the petition on or before 20 March 2023. Amended copy of the petition be served on the respondents at the earliest.

7. The Interim Application is allowed in the above terms. No costs.

[R. N. LADDHA, J.]

[G. S. KULKARNI, J.]