

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.17906 OF 2023
IN
WRIT PETITION NO.6599 OF 2022

Ganesh Subhashchandra Sathe & Anr.	Applicants
IN THE MATTER BETWEEN	
Girgaum Adarsh Co-op. Housing Society Ltd.	Petitioner
V/S	
Subhashchandra Vasudev Sathe & Ors.	Respondents

...
WITH
INTERIM APPLICATION NO.4601 OF 2023
IN
WRIT PETITION NO.6599 OF 2022

Girgaum Adarsh Co-op. Housing Society Ltd.	Applicant
IN THE MATTER BETWEEN	
Girgaum Adarsh Co-op. Housing Society Ltd.	Petitioner
V/S	
Subhashchandra Vasudev Sathe & Ors.	Respondents

...
WITH
WRIT PETITION NO.6599 OF 2022

Girgaum Adarsh Co-op. Housing Society Ltd.	Petitioner
V/S	
Subhashchandra Vasudev Sathe since deceased through LRs & Ors.	Respondents

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Ms. Rujuta Joshi i/b Ms. Kinjal Shah for the Applicants in IA 17906 of 2023.

Ms. Sunita D. Sonawane for the Petitioner/Applicant in WP and IA 4601 of 2023.

Mr. C.D. Mali, AGP for Respondent Nos.2, 3 and 4/State in WP and IAs.

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CORAM : SANDEEP V. MARNE, J.

DATE : DECEMBER 12, 2023.

P.C.:

INTERIM APPLICATION NOS. 4601 OF 2023 & 17906 OF 2023:

1 Interim Application No.4601 of 2023 is not on Board. Taken on Board.

2 Both the Interim Applications are filed essentially for same purpose i.e. to bring on record the names of legal heirs of deceased Respondent No.1. Since both Petitioner-Society as well as the legal heirs of Respondent No.1 desire the legal heirs of deceased Respondent No.1 to be brought on record, both the Interim Applications are allowed for the limited purpose to bringing legal heirs of Respondent Nos.1 on record.

3 The Petitioners are accordingly directed to amend the cause title in terms of the schedule of amendment to Interim Application No.4601 of 2023. Amendment to be carried out forthwith.

4 Both the Interim Applications are accordingly disposed of.

WRIT PETITION:

5 By this Petition the Petitioner-Society is aggrieved by the decision of the Divisional Joint Registrar dated 5 January 2022 as well as order dated 2 March 2017 passed by the Deputy Registrar conferring deemed membership of the Petitioner-Society on deceased Respondent No.1. One of the objections that the Petitioners had for admitting the deceased Respondent No.1 to the membership of the Society was failure on the part of the deceased Respondent No.1 to procure probate as Room Nos.20 and 21 initially were in the name of the uncle of deceased Respondent No.1. There is no dispute to the position that deceased Respondent No.1 has subsequently obtained the probate in his name. Another objection by the Petitioner-Society is the alleged unauthorized encroachment made by the deceased Respondent No.1 in the passage of the chawl. In my view, alleged encroachment committed by deceased Respondent No.1 has nothing to do with the issue of grant of membership in the Petitioner-Society.

6 In that view of the matter, I do not see any reason why the deceased Respondent No.1 could not be admitted as member of the Petitioner-Society. Respondent No.1 has passed away and his children Mr. Ganesh Subhaschandra Sathe and Ms. Mrudula Sandeep Limaye are brought on record as legal heirs. It would therefore be appropriate that the Petitioner-Society admits Mr. Ganesh Subhashchandra Sathe and Ms. Mrudula Sandeep Limaye as members of the Petitioner-Society in respect of Room Nos. 20 and 21.

7 Respondent Nos.1A and 1B to complete necessary formalities for admission to the membership of the Petitioner-Society within a period of eight weeks from today. The Petitioner-Society shall thereafter take decision to admit them as members within a period of four weeks from the date of completion of the necessary formalities including the contribution required for admission as member of the Petitioner-Society by Respondent Nos.1A and 1B.

8 With the above directions, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)