

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

WRIT PETITION NO. 4713 OF 2016

SANTOSH
SUBHASH
KULKARNI

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Date: 2023.04.01
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Nilesh Damodar Deshmukh

...Petitioner

Versus

Poonam Empire Co-operative Housing
Society Ltd. & ors.

...Respondents

Mr. Umanath Moolya, for the Petitioner.

Adv. Jahanara Sarkhat, i/b Devashree Raut, a/w M. Sirkhat,
Ganesh Narula, for Respondent No.1.

Mr. S. H. Kankal, AgP for the State/Respondent No.2.

CORAM: N. J. JAMADAR, J.

DATED : 31st MARCH, 2023

PC:-

1. Heard the learned Counsels for the parties.
2. The learned Counsels for the parties make a joint statement that the parties have amicably resolved the dispute and executed Consent Terms.
3. Consent Terms are tendered.
4. Mr. Nilesh Deshmukh, the petitioner and Mr. Ritesh Rathod and Mr. Ramesh Mhatre, Chairman and Secretary of respondent No.1 – Housing Society, respectively, are present before the Court. They admit the contents of the Consent Terms and execution thereof. They submit that they have voluntarily

executed Consent Terms and there is no coercion or duress. The petitioner and respondents are identified by their respective Counsels.

5. The Consent Terms are taken on record and marked 'X'.
6. Upon being inquired, the petitioner and respondents admit that they are agreeable to the resolution of the dispute in accordance with the Consent Terms.
7. It appears that the competent planning authority had regularized the subject structure, which was the bone of contention. The Consent Terms, *inter alia*, provide as under:

“5. That while issuing occupation certificate the CIDCO [charge transferred to VVMC in the year 2009] mentioned that amended plans were approved vide letters dated 19.12.2003 and 20.09.2007 thereby regularizing the shop in dispute.

6. Since the concerned Authority has authorized the said construction, hence it is decided to amicably settle the matter on the following terms and condition.

a. That the Respondent No.1 agrees and undertakes to issue membership in favour of the petitioner in respect of Shop No.9A.

b. That the petitioner hereby agrees and undertakes that he will co-operate and will not raise any objection of whatsoever nature, if any pipeline work is to be carried out in future beneath Shop No.9A.

7. The Writ Petition is accordingly allowed to be withdrawn with no order as to the costs.”

8. The aforesaid undertakings in the Consent Terms are accepted as the undertakings to the Court.

9. The petition thus stands disposed in accordance with the Consent Terms ("X").

10. There shall be no order as to costs.

[N. J. JAMADAR, J.]