

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5095 OF 2022

Latifuddin Khwaja Moniuddin
Shaikh And Ors ... Petitioners.

V/S.

The Joint Registrar Co-Op Soc.
(East And West Suburbs) And
Ors ... Respondents.

WITH
WRIT PETITION NO. 5301 OF 2022

Mohamed Asif Ansari And Anr ... Petitioners.

V/S.

The Joint Registrar Co-Op Soc.
(East And West Suburbs) And
Ors ... Respondents.

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Mr.Nitin Gaware Patil for the Petitioners.
Ms.Geeta R.Shastri a/w. Mr.Amit Shastri for the Respondents
No.1/(SRA).
Mr.Chirag Balsara a/w. Mr.Anil Mishra for Respondent No.3

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**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE : 30 August 2023.

JYOTI
RAJESH
MANE

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by JYOTI RAJESH
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Date: 2023.09.04
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P.C. :

Both these petitions challenge the order passed under the provisions of Section 73(CA) and Section 154B-23(5) of the Maharashtra Co-operative Societies Act, 1960 by the Respondents the Joint Registrar of Co-Op Soc. (East And West Suburbs). By this order the Joint Registrar held that the Petitioners are disqualified from being members Managing Committee of the Behram Sudhar Committee Gruha Nirman Sanstha Maryadit and as sequester of the disqualification of the members, Authorised Officer is appointed as an Administrator.

2 It is the contention of the learned counsel for the Petitioners that the Petitioners were not given adequate notice and opportunity. The learned counsel for the Respondents point out that the Petitioners have an alternate remedy of filing of Revision to the State Government and therefore, all the aspects can be considered. In the Revision also the Petitioners however contend that there is no adjudication of facts and the question is only restricted to legal issue as to whether having more than two children on a cut of date would entail disqualification as Member of the Managing Committee of Co-operative Society. The learned Counsel for the Petitioners submit that the Section 154B-23(5) of the Chapter 13(b) of the Maharashtra Co-operative Societies Act, would indicate that the legal submissions advanced by the learned Counsel for the Respondents are not correct.

3 We do not wish to enter into the arena of adjudication of this rival position as the Petitioners have an alternate remedy of filing the Revision. Learned counsel for the Petitioners submits that the Petitioners would file a Revision, however the interim orders which have been granted in this petition and which are operating since 25 April 2022, more than one and half year, should be continued for some time to enable filing of a Revision.

4 The learned Counsel for the Respondents No.3 submits that the interim orders have been modified from time to time placing various embargos on the Petitioners as well and the Petitioners should be restrained from taking any further steps during this period.

5 Apart from the aspect of Revision, the issue is that election to the concerned Society be held to have a seamless redevelopment. We direct Respondent No.1-Joint Registrar of Co-operative Societies, to examine the aspect as to whether the term of the society has come to an end and if the same comes to an end, proceed to take necessary steps to hold election, after examining the directions issued by the State Government in respect of holding of elections to the Co-operative Societies in the State.

6 Accordingly, we dispose of the Writ Petitions granting liberty to the Petitioners to file Revision Applications, keeping all

contentions of the parties open. The ad-interim orders operating in these petitions, as modified from time to time, would continue till 12 September 2023. Any continuation or otherwise would be considered by the Revisional Authority on its own merits without being influenced by the grant or continuation of the ad-interim orders in these petitions.

7 We note that the ad-interim orders as modified from time to time have placed embargo on both the sides and therefore, though the Petitions would continue under the interim orders as above the Petitioners are equally bound by the interim orders. We are informed that an Appeal is pending before the Apex Grievance Redressal Committee, it is open to the Respondent No.3 based on the above directions to seek appropriate adjournment in the pending Appeal.

8 Writ Petitions are disposed of as above.

9 When the Petitioners will move a Revision alongwith stay application before the State Government, they will give advance notice to the Respondent No.3.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)