

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7956 OF 2022

Henry Thomas Mathais And Ors ... Petitioners.

V/S.

State Of Maharashtra And Ors ... Respondents.

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Mr.Dushyant Kumar a/w. Joytitus A. Suramaz i/b. Onam Hingorani
for Petitioners.

Mr.R.P.Kadam AGP for Respondent No.1 and 2.

Mr.Surel Shah a/w. Mr.Rahul Shelke for Respondent Nos. 3,8 to 10.

Mr. Kamlesh Ghumre a/w. Mr.Sanket Patil for Respondent No.4 &
5(MHADA).

Ms.Chaitrali Deshmukh for Respondent No.6.

Mr.Tejesh Dande a/w.Mr.Pradeep Shingate a/w. Bharat Gadhavi
i/b.Tejesh Dande & Associates for Respondent No.7.

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

DATE : 14 September 2023.

P.C. :

Heard learned counsel for the parties.

2 A request for adjournment is made on behalf of the
learned counsel for the Petitioners. Having considered the matter
and the order proposed to be passed, it will not be necessary to keep the
Writ Petition pending, more particularly since the continuation of

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ad-interim order is being opposed by the Respondents.

3 The Petitioners are members of Respondent No.3 Chitalsar Manpada Omsagar Co-operative Housing Society, of which Respondent Nos.8 to 10 are arrayed as ex-office bearers of the Society. The Petitioners in this petition have made grievances alleging malfunctioning in the affairs of Respondent No.3-Society. It is the grievance of the Petitioners that Respondent No.8 to 10 have not looked into the interest of the Society and alongwith Respondent No.7, they are proposing to proceed to redevelop the property illegally. It is the grievance of the Petitioners that instead of making complaints to Respondent No.2-the Deputy Registrar Co-operative Societies, the same is not being looked into. The Petitioners have prayed for relief to direct Respondent No.2 to take cognizance of the Petitioners' complaint. Thereafter, the Petitioners have sought certain directions in respect of the redevelopment of the Society and grant such as revocation of permission, come to the developer etc.

4 In this petition notice was issued on 14 July 2022, at that time no ad-interim order was granted. Thereafter, the petition appeared on board of 8 September 2022, 30 September 2022, 14 November 2022, and thereafter on 10 March 2023. Till 10 March 2023 there was no ad interim order. Then on 10 March 2023 following order came to be passed:

“1 *Not on board. Upon mentioning taken on board.*

- 2 *Stand over to 15.03.2023.*
3 *Status-quo to be mentioned until then.”*

This order is therefore continued till date.

5 Learned counsel for Respondent No.3-Society states that at present the Society does not intend to carry out any redevelopment. A statement to that effect is made on Affidavit, which is filed in this Court. Learned counsel for the Respondent-Society states that in view of the order of *Status quo* which is not specific the Respondent-Society is not able to even conduct its day to day affairs, such as, holding Annual General Meeting (AGM). Learned counsel for Respondent No.3 further states that on 17 September 2023 AGM is scheduled and therefore, the order of *Status quo* be modified and be restricted to redevelopment process and not day to day functioning of the Co-operative Housing Society.

6 As regards the first prayer in respect of the Petitioners representations is concerned, we direct Respondent No.2 to look into these representations. Respondent No.2 shall take decision as per law, after giving opportunity to concerned, preferably within a period of 8 weeks.

7 As regards the position, in the meanwhile is concerned, we accept statement made on affidavit by Respondent-Society that at present no redevelopment is in contemplation and this position

would continue till the decision is taken by the Respondent No.2. As regards order of *Status quo* is concerned, considering the prayers in the petition, it could not have been in contemplation of this Court while granting *Status quo* that even day to day functioning cannot be carried out. Therefore, though we continue the order of *status quo* for a period of 8 weeks to enable Respondent No.2 to take a decision on representations of Petitioner, *status quo* would be restricted to the aspect of redevelopment and as far as day to day functioning is concerned the order of *status quo* would not affect the functioning of the Respondent-Society. As far as repairs are concerned, the order of *status quo* will be restricted to carry out major repairs and repairs akeen to redevelopment of the society.

8 Learned counsel for the Respondent-Society states that the redevelopment is not in contemplation and states that whenever redevelopment is proposed, the necessary provision of law would be followed.

9 Writ Petition is disposed of.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)