

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

**WRIT PETITION NO.5951 OF 2023**

Asavari Sathe

.... Petitioner

versus

Shree Gajanan Co-op Hsg. Ltd. & Anr.

.... Respondents

.....

- Mr. Manoj A. Patil, Advocate for Petitioner.
- Mr. S. H. Kankal, AGP for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.**  
**DATE : 28<sup>th</sup> APRIL 2023**

**P.C. :**

1. The Petitioner has challenged the order dated 23/03/2023 passed by the Maharashtra State Co-Op. Appellate Court, Pune, in AO No.05 of 2023 and also prayed for quashing and setting aside the impugned order dated 13/12/2022 passed by the learned Judge Co-operative Court No.2, Pune, below Ex.40 in Dispute No.84/2021.

2. Heard Mr. Manoj A. Patil, learned counsel for Petitioner and Mr. S. H. Kankal, learned AGP for Respondent No.2.

Digitally  
signed by  
MANUSHREE  
V  
NESARIKAR  
Date:  
2023.04.28  
18:04:36  
+0530

3. The dispute was filed by the Petitioner as power of attorney holder of her mother-in-law who was the flat owner of a flat in the concerned society. The dispute was filed in the year 2021 vide Dispute No.84/2021. The prayer in the said dispute was regarding the repairs of the terrace which was in a very bad condition. By another prayer, the cost of repairs to the tune of Rs.1,93,951/- was demanded.
4. Learned counsel for the Petitioner submitted that as of today, the Administrator is appointed to manage the affairs of the Respondent No.1 society. The learned Appellate Judge has rejected the A.O. by the impugned order mainly on the ground that the main prayer in the dispute and the prayer asked in the interim injunction application was one and the same and therefore if the injunction was granted it would amount to answering the entire dispute which required proper adjudication.
5. Learned counsel for the Petitioner invited my attention

to the Court Commissioner's report showing that the terrace is in a really bad condition.

6. I have considered these submissions and I have also seen the photographs annexed to this Petition. The condition of the terrace appears to be bad. The portion of Court Commissioner's report, which is reproduced in the impugned order, reads thus;

“the suit flat is in dilapidated condition as per the report submitted by the P.M.C. Engineer, same is not safe for residence. It appears that, extensive repairs are necessary. There are various cracks to the roof/slab. Already the slab of the gallery of kitchen and the parapet wall of the terrace was had fallen down. Considering this report it appears that, extensive repairs needs to be done to the suit flat. The contention of other members of society (who are residing on the second floor) is that, the position of their flat is similar.”

7. Thus, there does not appear to be any doubt that urgent repairs are necessary. Only because of the pendency of

the dispute no further steps are taken and the matter is being passed from lower Court to Appellate Court only for consideration of interim relief. Instead of wasting time, at this stage, it would be in the interest of justice and in the interest of the parties concerned and also for the safety of the members of the society, it is necessary that the dispute itself is decided at the earliest, particularly looking into the urgency of the situation. Hence the learned Judge, Co-operative Court No.2, Pune, is directed to decide the dispute No.84/2021 within a period of one month from today. It is made clear that in case of urgency, the Petitioner, the society members, the Administrator or even the officers of the Pune Municipal Corporation are free to take urgent steps to protect the life and safety of the residents of the society in the meantime. With these directions, the Petition is disposed of.

8. The parties to act of authenticated copy of this order.

**(SARANG V. KOTWAL, J.)**