

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7683 OF 2022

Jalaram Ashish Co-op. Housing

Society Ltd. Thr. Chairman

...Petitioner

V/s.

Laxmidas Velji Bhanushali and Ors.

...Respondents

WITH

WRIT PETITION NO. 7883 OF 2022

Jalaram Ashish Co-op. Housing

Society Ltd. Thr. Chairman

...Petitioner

V/s.

Mr. Rani Iyer & Ors.

...Respondents

Mr. D.S. Mhaispurkar a/w. Mr. H.S. Pawaskar, for the Petitioner.

Mr. Wasim Samlewale, for Respondent No.1 in both the petitions.

Mrs. Vaishali Nimbalkar, AGP for Respondents No.2 and 3.

CORAM : SANDEEP V. MARNE, J.

Dated : 13 September 2023.

P.C. :

1. By this petition, Petitioner-Society has challenged order dated 28 December 2021 passed by the Divisional Joint Registrar allowing Revision Applications No. 32/2019 and 33/2019 filed by Respondent No.1 in both the petitions.

2. One of the grievance raised by Petitioner-Society is that the notice of hearing of the Revision Applications was never received by any office bearer of the Society on account of which the Revision Applications have been decided without grant of any opportunity of hearing to the Society. Perusal of the order passed by the Divisional Joint Registrar would show that the reliance is placed on acknowledgment allegedly signed on behalf of the Petitioner-Society. However, perusal of the acknowledgment receipt would indicate that the same is signed by one 'Bhuvneshwari'. It is contended by the learned counsel for the petitioner that the person who has signed the acknowledgment is the wife of Respondent No.1 in Writ Petition No. 7883/2022.

3. On the contrary, the learned counsel for Respondent No.1 would submit that Ms. Bhuvaneshwari has erroneously put her signature on the acknowledgment receipt and the notice is actually received by the Secretary of the Society, Shri. S.R. Sawant. The learned counsel appearing for the Petitioner would demonstrate the difference in the signature of the Secretary on other documents and the one appearing in the acknowledgment receipt.

4. There appears to be debate amongst the parties as to whether the notice of hearing was indeed received by the Secretary of the Society or not. *Prima-facie*, signature of Ms. Bhuvneshwari appearing on the acknowledgment receipt does create an impression that she has received the notice. It is therefore difficult to hold that the Society was in receipt of notice of hearing of the Revision Applications.

5. In that view of the matter, the proceedings are required to be remanded before the Divisional Joint Registrar for being conducted afresh after grant of opportunity of hearing to the Petitioner-Society. Accordingly, the Writ Petitions are allowed. The orders dated 28 December 2021 passed by the Divisional Joint Registrar in Revision Applications No.32/2019 and 33/2019 are set aside. Revision Applications No.32/2019 and 33/2019 are restored on the file of the Divisional Joint Registrar. **Parties shall appear before the Divisional Joint Registrar on 25 September 2023** when the Divisional Joint Registrar shall fix a further date for hearing of the Revision Applications. It will not be necessary for the Divisional Joint Registrar to issue fresh notices in the Revision Applications to either of the parties. With the above directions, the Writ Petitions are disposed of.

6. The Divisional Joint Registrar shall make an endeavour to dispose of the Revision Applications in an expeditious manner.

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signed by
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SHAILESH
SAWANT
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SANDEEP V. MARNE, J.