



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7719 OF 2023

Olivia Tower A, B & C Co-operative
Housing Society Ltd. (Proposed)
through its Chief Promoter
Shri. Gaurav Deepak Deshpande ...Petitioner
Versus
M/s. T Bhimjyani Reality Pvt Ltd. & Ors. ...Respondents

Mr. Shriram S. Kulkarni, for the Petitioner.

Mr. Dileep Satale i/b. Mr. Harshad Bhadbhade, for Respondent No.1.

Mr. S. D. Rayrikar, AGP, for the Respondent/State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 26th SEPTEMBER 2023

P.C. :

1. Heard Mr. Shriram Kulkarni, learned counsel appearing for the Petitioner-proposed society through its Chief Promoter, Mr. Dileep Satale, learned counsel appearing for Respondent No.1 and Mr. Rayrikar, learned AGP, appearing for the Respondent-State.
2. The Petitioner i.e. Chief Promoter of the proposed society- Olivia Tower A, B & C Co-operative Housing Society Ltd. is

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challenging the legality and validity of order dated 2nd January 2023 passed by the learned Divisional Joint Registrar, Co-operative Societies, Konkan Division, Navi Mumbai as well as order dated 10th April 2023 passed by the Competent Authority @ District Deputy Registrar, Co-operative Societies, Thane, in so far as the same directs the Petitioner to comply with said order dated 2nd January 2023.

3. By order dated 23rd June 2022 passed by the learned Deputy Registrar Co-operative Societies, Thane City, Thane, name “Olivia Tower A, B & C Co-Operative Housing Society Ltd.” was reserved for the purpose of registration of the Petitioner-proposed society. The said order dated 23rd June 2022 has been challenged before the learned Divisional Joint Registrar, Co-operative Societies, Konkan Division, Navi Mumbai by the Respondent No.1, who is the developer. By order dated 2nd January 2023, the learned Divisional Joint Registrar although confirmed the said order dated 23rd June 2022, directed that the members of the said proposed society should not interfere with the construction of the other buildings of the Respondent No.1. By impugned order dated 10th April 2023 passed by the Competent Authority @ District Deputy Registrar, Co-operative Societies, the Petitioner-proposed society has been inter alia directed

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to comply with the said order dated 2nd January 2023.

4. It is the main contention of Mr. Kulkarni, learned counsel appearing for the Petitioner that the learned Divisional Joint Registrar, Co-operative Societies has no power to pass order directing the promoter-member of the said society not to interfere in construction of other buildings of the Respondent No.1. He states that in fact, the Divisional Joint Registrar has confirmed the order dated 23rd June 2022 in favour of the Petitioner-proposed society and thereafter issued the said order, which is in the nature of injunction. He states that the learned Divisional Joint Registrar, Co-operative Societies has no power to pass such order and therefore, the said direction is without jurisdiction.

5. Learned counsel appearing for the Respondent No.1 as well as learned AGP have failed to point out any provision of law under which said direction can be issued by the Divisional Joint Registrar and pass impugned order dated 2nd January 2023.

6. Accordingly, order dated 2nd January 2023 passed by the learned Divisional Joint Registrar, Co-operative Societies, Konkan Division, Navi Mumbai as well as order dated 10th April 2023 passed by the Competent Authority @ District Deputy Registrar, Co-operative

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Societies, Thane to the extent the same directs compliance of said order dated 2nd January 2023 as one of the condition to proceed with the registration of the society are set aside. Order dated 23rd June 2022 passed by the learned Deputy Registrar, Co-operative Societies, Thane City, Thane is confirmed.

7. The Competent Authority @ District Deputy Registrar, Co-operative Societies, Thane to proceed with the registration of the society in accordance with law and in terms of order dated 23rd June 2022 passed by the learned Deputy Registrar, Co-operative Societies, Thane City, Thane.

8. Accordingly, the Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]