

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7226 OF 2023

Ganesh Mohan Mudaliar & Ors.

..Petitioners.

Versus

Shivmangal Developers & Ors.

..Respondents.

Adv. Prashant Kulkarni and Rachna Mamnani for the petitioner.

Coram : Sharmila U. Deshmukh, J.

Date : June 19, 2023.

P. C. :

1. Challenge in the instant writ petition is to the order dated 3rd April 2021 passed by the City Civil Court, Mumbai in Chamber Summons No. 895 of 2021 in Suit No. 671 of 2021.
2. Heard learned counsel for the petitioners.
3. Learned counsel for the petitioner submits that the petitioners are the managing committee members of the respondent no.8- co-operative housing society, which has filed the suit in question. He would further submit that the petitioners being members of the said society, are the necessary and proper parties to the said suit.

4. The suit in question has been instituted by the SRA co-operative housing society of which petitioner Nos.1 to 4 are the managing committee members. Considering the decision of the apex Court in ***Daman Singh v. State of Punjab [AIR 1985 SC 973]***, wherein the Apex Court has held that member of the society must speak through the society or rather, the society alone can act and speak for him *qua* the rights and duties of the society as a body. That being the settled position, in my view, the impugned order does not suffer from any infirmity. It is also to be noted that if the present application for being impleaded by an member is allowed, then, each and every member of the society would seek impleadment in the proceedings which are required to be filed by the co-operative society for and on behalf of its members.

5. In view of the above, there is cause for interference. Writ petition is accordingly dismissed.

6. Needless to state that it is always open for the petitioners to institute independent proceedings in event they seek any reliefs adverse to that sought by the society in these proceedings.

[Sharmila U. Deshmukh, J.]