

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11556 OF 2022

Smt. Varsha Yogesh Panchigar & Others ...Petitioners
Versus
Smt. Ila Rajesh Soni & Others ...Respondents

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Mr. Akshay Shetty a/w Mr. Prajakta Pawar and Mr. Prathamesh Hiwalkar i/by
AVC & Associates, for Petitioners.

Mr. Dharmesh S. Jain, for Respondent No.1.

Mr. C.D. Mali, A.G.P. for Respondent Nos.2 & 3.

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CORAM : SANDEEP V. MARNE, J.

DATE : OCTOBER 25, 2023

P.C.:

1. The challenge in the present Petition is to the order dated 28 June 2022 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai allowing Revision Application No.194 of 2020 filed by Respondent No.1 and directing the Society to admit Respondent No.1 as its member. A dispute amongst the parties is with regard to Flat No.B/302, which was originally owned by Shri. Laxmidas Soni.

2. Shri. Laxmidas Soni has four daughters and one son. The son Rajesh Soni has already expired. Respondent No.1 is the wife of Rajesh Soni. Petitioners are daughters of Laxmidas Soni. There are disputes between

daughters and daughter-in-law of Shri. Laxmidas Soni with regard to the right to succeed to Flat No.B/302. It appears that the daughters had earlier executed no objection certificate for transfer of membership of the flat in favour of son Rajesh Soni. However after his death, the daughters are now opposed to transfer of membership of the flat in the name of daughter-in-law (Respondent No.1). The Deputy Registrar initially rejected the application for membership filed by Respondent No.1 by order dated 2 November 2020. One of the reasons recorded in his order passed by the Deputy Registrar is about execution of 'no objection certificate' in the name of brother Shri. Rajesh Soni and not in favour of the daughter-in-law (Respondent No.1.)

3. The Divisional Joint Registrar, in his order dated 28 June 2022 has held that one of the Petitioners Smt. Varsha Yogesh Panchigar had admitted before the Deputy Registrar during the course of hearing on 19 October 2020 that she had issued 'no objection certificate' for transfer of flat in the name of her brother Shri. Rajesh Soni. Prima facie therefore it appears that the sisters had agreed for transfer of membership of the flat in favour of their brother Shri. Rajesh Soni. Just because Shri. Rajesh Soni has expired, now they are opposing the transfer of membership in the name of the daughter-in-law.

4. In my view this is a dispute among the legal heirs of late Shri. Laxmidas Soni to succeed to his estate (Flat No.B/302). This dispute to title cannot be decided before the Deputy Registrar or Divisional Joint Registrar. The parties will have to adopt necessary civil proceedings for establishing their title in respect of the flat in question. Mere transfer of membership in the name of Respondent No.1 would not make her the owner of the flat in question. Petitioners, if they wish to claim a share in the flat, will have to institute appropriate civil proceedings. In that view of the matter no error can be traced in the order passed by the Divisional Joint Registrar which only ensures that till adjudication of respective claims of parties with regard to the title of the flat, the membership is temporarily held by Respondent No.1.

5. The Writ Petition is accordingly disposed of, reserving all liberties in favour of the Petitioners to agitate their claim for title to the flat in appropriate civil proceedings. All the contentions of the parties are kept open.

(SANDEEP V. MARNE, J.)