

Dusane

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

WRIT PETITION NO.2203 OF 2023

Sudesh Sitaram Nalawade & Anr. ...Petitioners

V/s.

State of Maharashtra & Ors. ...Respondents

Mr. Deepak Pandey for Petitioners.

Mr. P.P. Pujari, AGP for State.

Mr. Pranil Sonawane i/by Mr. Vinod Utekar for
Respondent Nos. 5 and 6

CORAM: MADHAV J. JAMDAR, J.

DATE: 23rd August 2023

P.C.:

1. Heard Mr. Pandey, learned Counsel appearing for the Petitioners, Mr. Pranil Sonawane, learned Counsel appearing for the Respondent Nos. 5 and 6 and Mr. Pujari, learned AGP for State.

2. The Petitioner is impugning the order dated 13th July 2018 passed by the Deputy Registrar, Co-operative Societies, Thane City, Thane passed in Upa.Ni./Thane Shahar/B-6/Vibhajan/ Section 17/NMM Kamgar Hou./Antim Adesh/1999/ 2018 as

confirmed by order dated 14th May 2019 passed by the Divisional Joint Registrar, Co-operative Societies, Konkan Division, Navi Mumbai in Appeal No. 132 of 2018. The Petitioner is also challenging the legality and the validity of the order dated 28th July 2022 passed by the Divisional Joint Registrar, Co-operative Societies in Appeal No. 107 of 2018.

3. Mr. Pandey, learned Counsel appearing for the Petitioners submits that more area has been allotted to the Building No.3 and therefore the impugned orders are required to be quashed and set aside. He further submits that the impugned order in the appeal filed by the Petitioners has been passed on the basis of order dated 14th May 2019 passed in Appeal No. 132 of 2018 and therefore, also the same is illegal.

4. Perusal of record shows that there were total 13 buildings in the original Society i.e. Respondent No. 4 - NMM Kamgar Co-operative Housing Society, Kalwa, Thane. Out of those 13 buildings, 12 buildings were constructed about 40 years back and therefore, the same have become dilapidated. Building No. 3 was constructed in 1995 and relatively the said building is in a better position. Therefore, the members of building No.3 opposed the redevelopment. However, as the other 12 buildings have become extremely dilapidated, Respondent No. 4- Society moved a proposal for division of the Society, one society

consisting of 12 buildings and another society consisting of only building No. 3.

5. It is significant to note that the total members of the Society are 408. The present petition has been filed only by two members, who are occupying flats in building Nos. 4 and 8. It is the contention of Mr. Pandey, learned Counsel appearing for the Petitioners that 64 members have opposed said sub-division before the Deputy Registrar. In any case, it is admitted position that the Respondent No. 4- Society has applied for said bifurcation supported by overwhelming members of the society. Perusal of the impugned order shows that the same has been passed by taking into relevant aspects. Therefore, this is not a case where interference by this Court is required under Article 227 of the Constitution of India.

6. Therefore, the Writ Petition is dismissed, however, with no order as to costs.

BHALCHANDRA
GOPAL
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(MADHAV J. JAMDAR, J.)