



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14292 OF 2018

Prabhavati Shitalaprasad Yadav }
President of Samrat Welfare Society }
Having its office at }
Shop No.1/A, S. No. 317-26, Azmi Nagar, }
Gate No.7, Nomani Road, Malvani, }
Malad (W), Mumbai -400 095 } .. Petitioner

Versus

1. The State of Maharashtra }
2. The Assistant Registrar of Societies }
Greater Mumbai Region, Mumbai having }
office at 2nd Floor, office of the Charity }
Commissioner, 83, Annie Besant Road, }
Worli, Mumbai -400 018. }
3. Shri Radheyshyam Dayaram Pal, Hon. }
President of New Samrat Welfare Society, }
having office at Aazmi Nagar, Gate No. 7, }
Room No. A5, Near Himgiri Building, }
C.T.S. No. 3389, Survey No. 117, H. No. }
26, Samrat Society, Malvani, Malad }
(West), Mumbai -400 095. }
4. New Samrat Welfare Society, having office }
at Aazmi Nagar, Gate No. 7, Room No. }
A5, Near Himgiri Building, CTS No.3389, }
Survey No. 117, H. No. 26 Samrat }

Society, Malvani, Malad (West), Mumbai- } ..Respondents

Ms. Aditi Naikare, Advocates for the Petitioner.

Mr. Shailesh Rai, Advocates for Respondent Nos. 3 & 4.

Mr. V.S. Nimbalkar, AGP for the Respondent Nos. 1 & 2.

CORAM : SANDEEP V. MARNE, J.

DATE : 6 OCTOBER 2023

PC:

1. This petition is filed by Petitioner challenging Order dated 12th February 2014 as well as the Certificate of Registration granted in favour of Respondent No. 4 Society under the provisions of Societies Registration Act, 1860.

2. Petitioner claims to be the owner of the land bearing CTS No. 3389, Survey No. 117, H No. 26 Samrat Society, Malvani, Malad, Mumbai. She had applied for registration of a society on 7th June 2011 by name 'Samrat Welfare Association' showing the address as Shop No.1/A Survey No.317-26 Azmi Nagar, Gate No.7 Nomnai Road, Malvani, Malad (West), Mumbai. A Registration Certificate dated 16th July, 2011 was issued by the Registrar in the name of 'Samrat Welfare Association'. She had filed caveats apprehending

registration of a separate society bearing same or similar name. She claims not to have received any notice in respect of any proceedings lodged by Respondent No.3 for registration of another society. By Order dated 12th February 2014, the Registrar granted registration of 'New Samrat Welfare Society'.

3. Petitioner has filed suits against occupants of structures seeking possession of the suit premises located on the land owned by her. Simultaneously with registration of Respondent No.4 Society, Respondent No.3 also got the said society registered as a Trust under the provisions of Section 19 of the Maharashtra Public Trusts Act, 1950 by Order dated 09.07.2018. In the present petition, Petitioner is aggrieved by registration of Respondent No.4 Society under the provisions of Societies Registration Act, 1860 and she had adopted separate proceedings in respect of registration of Respondent No.4 as a Trust under the provisions of Maharashtra Public Trusts Act, 1950.

4. I have heard Ms. Naikare, the learned counsel appearing for the Petitioner and Ms. Nimbalkar, the learned AGP for Respondent Nos.1 and 2 and Mr. Rai, the learned counsel for the Respondent Nos. 3 and 4.

5. After having considered the submissions canvassed by the learned counsels appearing for the parties, it must be observed at the very outset that the Petition suffers from gross delay and laches. Petitioner claims that the order of registration of Respondent No.4 was passed on 12th February 2014. That order has not been produced along with the petition. What is produced at Exh. E, at Page 71 of the petition, is not the registration certificate, but a certified copy of rules and regulations of the Society. Be that as it may. The present petition has been filed on 25.09.2018 i.e. after four long years of grant of registration to Respondent No.4. No justification is offered in the petition for this gross delay of four long years. Therefore, the present petition deserves to be rejected on the grounds both of delay as well as laches.

6. Even on merits, I do not see any ground to interfere in the order of registration of Respondent No.4 Society. The main apprehension of the Petitioner for registration of Respondent No.4 society is that Respondent No.3 and other persons claiming to be part of society would rely on the registration certificate, for claiming rights over the land and structures occupied by them. In my view, mere registration of society at a particular address would not be determinative of rights or entitlements of parties over any land or structure.

Such rights will have to be independently established in civil proceedings and registration certificate of a society will have no bearing on that issue.

7. The other objection raised by Mr. Naikare is about similarity in names between the two Societies. She would rely on Section 3A of the Societies Registration Act, 1860 which reads thus:

3A. Prohibition against registration of societies with undesirable names;

No society shall be registered by a name which in the opinion of the Registrar, is undesirable, being a name which is identical with or which in the opinion of the Registrar, so nearly resembles the name by which any other existing society has been previously registered, as to be likely to decide the public or members of their society, or which without the previous permission of the Government concerned, suggests or is calculated to suggest the patronage of the Government or connection with anybody constituted by that Government or any local authority, or which may subject to any rules made in, this behalf, be deemed to be undesirable by the Registrar

8. In my view, even if Ms. Naikare's contention of similarity in the names of two societies is to be accepted, it cannot be said that their registration would cause any confusion amongst the members of the two societies. No material about the exact activities of the two societies is placed on record. Also, upon being asked the exact purpose why Petitioner has registered 'Samrat Welfare Association', the answer is welfare of local residents. However, it is not demonstrated as to how

registration of another society with name 'New Samrat Welfare Society' would come in the way of Petitioner allegedly taking care of well-being of local residents. Therefore, it cannot be said that registration of Respondent No. 4 Society was undesirable as per Section 3A of the Act. In my view, therefore, mere alleged similarity between names of two associations would not be a ground for this Court to exercise jurisdiction under Article 227 of the Constitution of India.

9. The main objection of Petitioner to registration of Respondent No. 4 Society appears to be possible claims made by Respondent No. 3 and others in respect of occupancy rights based on such registration. Mere registration of Respondent No. 4 Society would not create any right in favour of any person in respect of land or structure in question. Therefore Ms. Naikare's apprehension in this regard is misplaced.

10. Resultantly, I do not find any merit in the petition. It is rejected without any order as to costs.

[SANDEEP V. MARNE, J.]