

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 15924 OF 2022**

The Chairman/Secretary Vaishali Nagar  
Madhuban CHS Ltd.

..Petitioner

Vs.

Ms. Rumana A. Godal & Ors.

..Respondents

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Mr. Kishor Patil i/b. Ms. Priyanka Naik for Petitioner.  
Mr. A. C. Godal, Constituted Attorney of Respondent No.1 present.  
Mr. P.P. Pujari, AGP for State/Respondent Nos.2 and 3.

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**CORAM : G.S. KULKARNI, J.  
DATE : JANUARY 05, 2023**

**P.C.:**

1. Heard Mr. Patil, learned counsel for the petitioner, Mr. A. C. Godal, Constituted Attorney for respondent no.1 who has appeared in person and Mr. Pujari, learned AGP for respondent nos.2 and 3.

2. Challenge in this petition is to the orders dated 02 November, 2022 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai whereby revision application no. 149 of 2022 as filed by the petitioner-society has been rejected. The subject matter of the dispute in the present proceedings pertains to the membership in the petitioner-Vaishali Nagar Madhuban CHS Ltd. (for short, “the

society”) to be transferred in favour of respondent no.1-Ms. Rumana A. Godal, who has purchased Flat No.703 from the erstwhile member of the society Mrs. Smruti Date and Mr. Sandeep Date (associate member) under a registered agreement dated 25 February, 2021. Consequent to purchase of the said flat, an application was made by respondent no.1 to the society for transfer of the share certificate in her name. However, the society refused to accept and/or approve such application for transfer of the membership, in favour of respondent no.1, on the ground that there were outstanding dues payable by the erstwhile members Mrs. Smruti Date and Mr. Sandeep Date. Mr. Patil has informed the Court that the amount due and payable by the said erstwhile member to the society was in the tune of Rs. 4 Lakhs. Mr. Patil has fairly stated that the society had already initiated several proceedings against Mrs. Smruti Date and Mr. Sandeep Date for recovery of the said amount. Reference to this has been made in paragraph 1C (page 5 of the petition) as under:-

“It is pertinent to note that there are various litigations pending in various Courts including Revision Application No.24 of 2022 before the District Deputy Registrar, C.S., Mumbai against an order dated 22 June, 2022 passed under Section 154-B-29 of M.C.S. Act, 1960 by respondent no.2 as the said members are defaulters of society’s dues.”

3. Mr. A. C. Godal, Constituted Attorney of respondent no.1 has

placed on record a letter dated 15 February, 2021 addressed by the petitioner-society to Dr. Prashant Sonawane, Deputy Registrar of Co-operative Housing Society (MHADA) whereby in the last paragraph of the first page of the said letter, the society has categorically stated that at the relevant time, there was an outstanding amount of Rs. 74,287/- and that since last 14 years, Mrs. Smruti Date and Mr. Sandeep Date were refusing to acknowledge the amount and make payment of the society's dues.

4. It thus appears that the society had a long pending claim against the erstwhile members against whom proceedings were already initiated. Considering such complexion of the proceedings as also considering the statutory provisions which are brought about by the insertion of Chapter XIII-B of the Act Maharashtra Co-operative Societies Act, 1960 (for short, "MCS Act") in relation to the housing co-operative societies w.e.f. 09 January, 2019 by Maharashtra Act 23 of 2019, in my opinion, it is appropriate that the petitioner proceeds to pursue and prosecute the pending proceedings for recovery as undertaken against Mr. Smruti Date and Mr. Sandeep Date as these proceedings appear to be prior to the date of the transfer of the flat in question in favour of respondent no.1 and for that matter even prior to the amendment to the

MCS Act being incorporated. The said litigation has not come to an end. All contentions of the petitioner-society in respect of the pending proceedings against Mrs. Smruti Date and Mr. Sandeep Date are expressly kept open including the contentions of the said persons.

5. However, at the same time, the society needs to transfer the flat in favour of respondent no.1 and issue respondent no.1 a share certificate in respect of the said flat. The society is accordingly directed to comply with the letter dated 21 December, 2022 issued by the Deputy Registrar, Co-operative Societies.

6. Mr. Patil has fairly stated that respondent no.1 can complete the formalities if any remaining to complete the transfer. Respondent no.1 shall comply with the official formalities of submission of relevant transfer forms as prescribed by law, if not already complied, the same be complied.

7. With the above observations, the petition would not require any further adjudication. It is accordingly disposed of. No costs.

**[G.S. KULKARNI, J.]**