

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15835 OF 2022

Ram Bhagat & Ors. ... Petitioners

Versus

Windchime Homesh Co-operative Housing ... Respondents
Society Ltd. & Ors..

Mr.Kishor Patil i/b. Mr.Shrikant D. Patil, for the Petitioners
Mr.C.D.Mali, AGP for the State-Respondent Nos.3 to 5.

CORAM: G. S. KULKARNI, J.
DATED: JANUARY 11, 2023

PC.

- 1.** Not on board taken on board on a praecipe as moved on behalf of the petitioners.
- 2.** Heard Mr.Patil, learned Counsel for the petitioners. The order impugned in this petition is an order dated 19 December 2022 passed by respondent No.4-Competent Authority cum District Registrar, Co-operative Societies, Pune (Rural), Pune. The petitioners are third parties in the proceedings of deemed conveyance as initiated by respondent No.1 Windchime Homes Co-operative Housing Society Ltd. The petitioners had moved an application for intervention in such proceedings. The proceedings on the Society's application for deemed conveyance were listed before the said authority on 21 November 2022 and as Advocate representing the petitioners was unwell, he could not remain present. There is a roznama order recorded to that effect that the third party is absent for such reason. Again the proceedings were taken up on 5 December 2022, on that date also the petitioners were not represented, and the roznama records that the petitioners-third parties

are absent. Thereafter, the proceedings were adjourned to 19 December 2022 when again the petitioners had remained absent. In these circumstances, the authority passed the impugned order that as the third party intervenors are absent, the application for intervention would stand rejected.

3. Mr.Patil drawing the Court's attention to the roznama would submit that there were bonafide and genuine reasons for the petitioner's absence as the Advocate who was entrusted the case, was unwell and therefore, the petitioners although filed an intervention application, could not remain present in the proceeding when it was listed. He submits that the interest of the petitioners would be seriously prejudiced if the petitioners are not heard on the intervention application, in the adjudication of the proceedings for deemed conveyance as filed by respondent no.1.

4. I have perused the record. It appears from the Roznama orders referred above also do not find any formal application on the part of the respondents seeking dismissal of the intervention for the reason of absence of the petitioners. Even otherwise it appears that the impugned order is passed by the authority *suo motu* and not on any opposition of respondent no.1.

5. In this view of the matter, it is in the interest of justice that the intervention application filed by the petitioners is restored to the file of the authority-respondent no.4 and the petitioners be heard on their application, as may be permissible in law. This shall, however, be subject to all contentions/objections as may be raised by the parties to the original proceedings. All contentions of the parties are expressly kept open.

6. The petition is being disposed of without notice to the respondents as there is no reason for issuing notice and calling upon the respondents to answer the notice for such a short cause. Also no prejudice whatsoever is being caused to the respondents. As all contentions of the respondents on the intervention are expressly kept open.

7. It is clarified that the order permitting the intervenors to intervene shall not be any reflection on the merits of the proceedings before respondent no.4. The proceedings be decided without being influenced by this order.

8. It is clarified that the petitioner shall not seek any adjournment on any of the dates of hearing before respondent no.4, and shall remain present and participate in the proceedings.

9. Before parting it needs to be stated that the petitioners were not diligent in removing the office objections also there was no basic efforts and courtesy to file a typed copy of the impugned handwritten order on the roznama. Therefore, although the petition is allowed, it is allowed subject to cost of Rs.5000/- to be deposited by the petitioners with the Kirtikar Law Library. Let the cost be deposited within one week from today.

10. Disposed of in the above terms.

(G. S. KULKARNI, J)