

Harish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7417 OF 2023

Happy Valley Homes Chs Federation Ltd

...Petitioner

Versus

Happy Valley House Phase Iii & Ors.

...Respondents

Mr. Rohit D. Joshi for the Petitioner.

Adv. Sangram Singh Bhosale, Siddharth Mehta, Nrupal Fingankar,
Pushkara Bhosale & Harshada Shrikhande for Respondent No. 2.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : FEBRUARY 20, 2024

P. C. :

1. Heard.

2. By this Petition, the challenge is to the order dated 13th December, 2022 passed by the Hon'ble Minister for Co-operation in Revision Application No. 470 of 2021 dismissing the Revision Application.

3. The only contention raised by learned counsel for the Petitioner is that the impugned order dated 13th December, 2022 records that the Revision Application was heard on 11th November, 2022 and on 8th December, 2022 and that during the hearings, the Revision Applicant

and the Respondent were present and had argued the matter. Pointing out to the rojnama of 11th November, 2022 which is at page No. 85 of the Petition, learned counsel for the Petitioner would contend that there was no hearing conducted on 11th November, 2022 and the matter was adjourned and parties were to be intimated of the next date of hearing. He would further contend that the rojnama of 8th December, 2022 at page No. 86 make it more than evident that on that day only Respondent No. 1 and 2 were present and on the same day and the Revision Application was closed for orders.

4. *Per contra*, learned counsel for Respondent No. 2 would submit that the Petitioners were aware of the proceedings and were also aware that the matter is fixed for hearing on 8th December, 2022. He points out page No. 120 of the Affidavit-in-reply which is a notice issued by Respondent No. 7 as regards the hearing scheduled on 8th December, 2022. He submits that nothing has been argued on the merits of the matter and as such, it is not necessary for the matter to be remanded for fresh hearing.

5. Considered the submission and perused the record.

6. The record more than sufficiently indicates that on 11th November, 2022, an Application was filed by the Advocate for the Petitioner

Federation seeking adjournment of the hearing due to health issues. The rojnama of 11th November, 2022, would indicate that on that day, the Petitioner and the junior of the Advocate on record were present and the next date of hearing was to be communicated to the parties. Although learned counsel for Respondent No. 2 would point out the notice at page No. 120 there is nothing to demonstrate that the same was delivered to the Petitioner. Be that as it may. The rojnama of 8th December, 2022 records the presence of only Respondent No. 1 and 2 and the matter being closed for orders. What is most disturbing is the observation in the impugned order dated 13th December, 2022 that during the hearing on 11th November, 2022 and 8th December, 2022, the Applicant and the Respondents were present and had argued the matter. The impugned order thereafter records the oral arguments of the Petitioner and the conclusion deals with the documents as well as the oral arguments. Admittedly, on 8th December, 2022, the Revision Applicant i.e. the Petitioner herein was not present and in the absence of the Petitioner the arguments of the Petitioner are stated to have been dealt with.

7. As it is not disputed that as on 8th December, 2022 the Petitioners were not present for hearing, this Court is constrained to quash and set aside the impugned order dated 13th December, 2022 and remand the Revision Application No. 470 of 2021 to the Respondent No. 7 to be

decided afresh after issuing notice to the parties and after giving them an opportunity of being heard.

8. Considering that the Revision application is of the year 2021, the Respondent No. 7 is requested to decide the same expeditiously and in any event within a period of 8 weeks from today.

9. Writ Petition is allowed in the above terms.

(SHARMILA U. DESHMUKH, J.)