

SA Pathan

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

WRIT PETITION NO.359 OF 2022

**WITH
INTERIM APPLICATION NO.14878 OF 2023**

**IN
WRIT PETITION NO.359 OF 2022**

Belair Co-operative Housing Society Ltd. ... Petitioner

V/s.

The Divisional Joint Registrar
Cooperative Societies, Mumbai Division
& Ors

... Respondents

Mr. Arshil Shah a/w Ms. Pratiksha Koshe, for Petitioner.

Mr. Sanjay D. Rayrikar, AGP for State/Respondent
Nos.1 & 2.

Mr. Surel S. Shah a/w Mr. Parimal Shroff & D. V.
Deokar & D. Parikh i/by Parimal K. Shroff & Co., for
Respondent No.3 & for Applicant in IA.

Mr. Rubin Vakil a/w Mr. Chinmay Mehta i/by R.V.J.
Accociates, for Applicant in IA.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 10, 2024

P.C.:

1. The petitioner is a cooperative housing society challenging order dated 3 December 2020 passed by the Revisional Authority

dismissing petitioner's revision against the order passed by the Registrar directing the petitioner/society to enroll respondent No.3 as its deemed member.

2. The respondent No.3 on 15 April 2017 applied to petitioner/society for entering his name as member of society, the ownership of property in dispute was transferred to respondent No.3 by gift deed dated 7 February 2017. According to respondent No.3 one Mrs. Chand Narain Bhojwani was member of the petitioner/society on the date of application, she gifted her share to respondent No.3's favour.

3. The petitioner/society by order dated 15 June 2017 rejected respondent No.3's request on the ground that the title of Mrs. Chand Narain Bhojwani was in dispute and, therefore, documents to show valid title of Mrs. Chand Narain Bhojwani are necessary. According to the petitioner, she is the member of the society, the share certificate placed on record indicates that the share certificate is exclusively in the name of Mrs. Chand Narain Bhojwani.

4. The respondent No.3, therefore, approached before the Deputy Registrar and the Deputy Registrar by order dated 4 March 2020 declared respondent No.3 to be deemed member of petitioner/society. The Deputy Registrar recorded a finding that Mrs. Chand Narain Bhojwani transferred her 70% share in favour of respondent No.3 by registered gift deed dated 27 February 2017 by Krishna Bhojwani.

5. The petitioner challenged the order of Deputy Registrar by filing Revision Application No.161 of 2020. The Revisional Authority by order dated 3 December 2020 dismissed the revision. Hence, the society has filed the present writ petition.

6. Learned Advocate for petitioner submitted that title of Mrs. Chand Narain Bhojwani was disputed by one Kamlesh Waswani who was member before Mrs. Chand Narain Bhojwani. Therefore, the society was justified in seeking title documents of Mrs. Chand Narain Bhojwani from the respondent No.3.

7. It is not in dispute that the share certificate of property in dispute stands exclusive in the name of Mrs. Chand Narain Bhojwani. The registered gift deed by Mrs. Chand Narain Bhojwani in favour of respondent No.3 was placed before the society. The registered gift deed of balance 30% share by Krishna Bhojwani was placed before the Deputy Registrar. With the result, the Deputy Registrar and Divisional Joint Registrar concurrently held that the title of property in dispute stands transferred in favour of respondent No.3. It is for the housing society to justify refusal of membership based on sufficient cause. In my opinion, therefore, the reasons recorded by the society that respondent No.3 did not furnish title document of Mrs. Chand Narain Bhojwani cannot be termed as sufficient cause for refusal of respondent No.3's membership. Therefore, both the authorities have rightly declared respondent No.3 to be deemed member of petitioner/society. Hence, no interference as called for.

8. The writ petition is dismissed. No costs.

9. In view of disposal of writ petition, the interim application stands disposed of being infructuous.

(AMIT BORKAR, J.)