

AGK

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

WRIT PETITION NO.4152 OF 2024

Vijay Krishna Chaudhari & Ors.

... Petitioners

V/s.

Dev Bhakti CHS Ltd. & Ors.

... Respondents

Mr. Shantanu Raktade with Mr. Amar Parsekar for the
petitioners.

Mr. Vishal Pattabiraman i/by Mr. Pramod Mahale for
respondent No.1.

Mr. Govind B.Solanke for respondent No.5.

CORAM : AMIT BORKAR, J.

DATED : MARCH 26, 2024

P.C.:

1. The challenge in this writ petition is to the order passed by the Cooperative Appellate Court confirming order passed by the Cooperative Court rejecting petitioners' dispute in exercise of powers under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908.

2. The petitioners filed dispute under Section 91 of the Maharashtra Cooperative Societies Act, 1960 seeking a declaration that the resolution dated 12 November 2022 passed in Special General Body Meeting in relation to the appointment of opponent No.5 to redevelop society's property is illegal, null and void. The second prayer is in relation to agreement entered into in furtherance of the resolution. Prayer (c) is consequential relief based on declaration sought in prayer (a). Prayer (d) is also in

relation to the redevelopment of the society.

3. It is well settled in view of series of judgments of this Court that redevelopment of a housing society is not the business of a Cooperative Housing Society. One of the judgment which take such view is in the case of **Vardhman Developers Ltd.v. Borla Coop. Housing Society Ltd.** reported in (2014) 2 Bom. C.R. 420. The Cooperative Court has referred to such judgments in its order and has rejected the dispute.

4. The Cooperative Appellate Court relying on series of judgments of this Court holding that redevelopment of the property of a housing society is not the business of cooperative society confirmed the order of rejection of the dispute.

5. It is also well settled that dispute under Section 91 of the Maharashtra Cooperative Societies Act, 1960 is maintainable only if the subject matter of dispute touches business of the society. Since redevelopment does not touches business of a Cooperative Housing Society, the Courts below have rightly rejected petitioners' claim. Therefore, no interference under Article 227 of the Constitution of India is called for.

6. However, it will be open for the petitioners to raise all other contentions for ventilating their rights as are permissible in law in an appropriate proceeding.

7. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)