

Gayatri

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10789 OF 2017
WITH
WRIT PETITION NO. 11767 OF 2017**

Mavji Kanji and others ... Petitioners

Vs.

Sardar Nagar Anand CHSL and another ... Respondents

Ms. Sonal Hemant Misha a/w Mr. Kunal Bhange, Advocate for
Petitioner Nos. 1 to 5.

Mr. S. B. Pawar a/w Mr. Lubna Shaikh i/b Mr. S. K. Legal Associates
LLP for Respondent No. 2.

Mr. Nirav Doshi i/b Mr. Amit Karle, Advocate for Respondent No. 1.

CORAM : GAURI GODSE, J.

DATE : 24th JANUARY 2024

P.C.

Writ Petition No. 11767 of 2017

1. This petition challenges the order passed by the State Co-operative Appellate Court allowing the appeal preferred by the respondent no. 2. The appeal was preferred for challenging the

Judgment and Award passed by the Co-operative Court on 30th November 2015 allowing the dispute filed by the petitioner. By the said order, opponent nos. 1 to 5 in the dispute were directed to handover the possession of the disputed office premises to the petitioners. However, the said order has been set aside in appeal filed by respondent no. 2 herein.

2. Learned counsel for the petitioners submitted that the petitioners are claiming right on the basis of an Agreement dated 9th January 1986. Learned counsel for the respondent no. 2 states that the said agreement is cancelled long back and the petitioners have also received refund.

3. So far as the right of the petitioners is concerned, there is no dispute that except the said agreement of the year 1986, the petitioners' claim is not based on any other transaction and/or any right to claim the disputed office premises.

4. Though the petitioners do not admit to have received refund, it is not disputed that the agreement dated 9th January 1986 is cancelled.

5. On perusal of the impugned order passed in the appeal, I do not find any perversity, illegality or infirmity in the order to invoke the powers under Article 227 of the Constitution of India to interfere in the impugned order.

6. In view of the aforesaid facts, I do not see any reason to interfere in the order as the petitioners are unable to point out their right to claim possession of the disputed office premises. The petition is devoid of any merits.

7. For the reasons stated above, writ petition is dismissed.

Writ Petition No. 10789 of 2017

8. This petition arises out of the appeal preferred by the respondent-society for challenging the same Judgment and Award which is the subject matter of Writ Petition no. 11767 of 2017.

9. For the reasons recorded in the order passed in Writ Petition No. 11767 of 2017, this petition is also dismissed.

[GAURI GODSE, J.]