

VRJ

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

WRIT PETITION NO.880 OF 2024

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Soumitra Sen (Secretary)
For Konark Indrayu Enclave
Condominium (Phase-I)

... Petitioner

V/s.

Satpreet Singh Rajpal & Ors.

... Respondents

Mr. Vilas B. Tapkir for the petitioner.

Mr. S.H. Kankal, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 13, 2024

P.C.:

1. By the impugned order, the Cooperative Court in exercise of power of appeal under section 16(B) of the Maharashtra Apartment Ownership Act, 1970 has permitted respondent No.6 to intervene in the appeal.

2. According to the petitioner, he is the Secretary of the condominium. The dispute in relation to his right to continue as Secretary is pending before the Civil Court and, therefore, in absence of adjudication by the Civil Court to work in capacity of Secretary, the impugned order could not have been passed.

3. On perusal of the impugned order, it appears that the Cooperative Court has recorded a prima facie finding for the

purpose of allowing application of respondent No.6. It is made clear that such adjudication will not prejudice the petitioner's right to prosecute suit *and appeal under section 16(B)* in relation to relief prayed in the suit *and appeal under section 16(B)*. Hence, by keeping the right of the petitioner open, no interference in the impugned order is called for.

4. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)

Note:- This order is modified as per order dated 16th February 2024. The corrections in paragraphs 1 and 3 are shown in italicize.