

VRJ

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

WRIT PETITION NO.808 OF 2024

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Gajanan Shridhar Berde	... Petitioner
V/s.	
Krypton Tower Cooperative Housing Society Ltd. Through Its Secretary	... Respondent

Dr. Uday Warunjikar i/by Mr. Sumit S. Kate for the petitioner.

Ms. Nandita Shah i/by Jaykar & Partners for the respondent.

CORAM : AMIT BORKAR, J.

DATED : MARCH 4, 2024

P.C.:

1. Learned advocate for the respondent seeks time to file reply, however, the impugned order is passed by the Cooperative Court. Such order needs to be supported based on reasons in the order. Said position of law has been laid down by Five-Judges Bench of the Apex Court in the case of **Mohinder Singh Gill And Another vs. Chief Election Commissioner, New Delhi** reported in (1978) 1 SCC 405. Paragraph 8 reads thus:

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in

the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in *Gordhandas Bhanji* (AIR 1952 SC 16) :

Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

Orders are not like old wine becoming better as they grow older.”

2. Hence, the request for placing affidavit-in-reply is rejected.
3. The respondent shall make his submission day after tomorrow.
4. Stand over to **6th March 2024**.

(AMIT BORKAR, J.)