

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

WRIT PETITION NO. 5450 OF 2024

Sachin Gopinath Kulkarni

...Petitioner

Versus

Siddhakala Co-op. Housing Society
Through Chairman/Secretary Treasurer
Abhijeet Vikhare (Chairman)

...Respondent

Mr. Kulkarni Kiran i/by D. Jain for the Petitioner.

CORAM : AVINASH G. GHAROTE, J.
DATE : 19th JULY 2024

P.C.:

1. Heard Mr. Kulkarni, learned counsel for the petitioner.
2. The petition questions the order dated 18.11.2019 passed by the Judge Co-operative Court Thane by which it has been held, that the application under Section 340 r/w Section 195 of Code of Criminal Procedure (Cr.P.C.) and Section 209 of Indian Penal Code (IPC) would be decided after recording evidence as the contention as to whether the disputant has made a false and vague statement is a matter of evidence, the position in the dispute, being that the matter is pending for hearing of

Exhibit-5. It is stated at the bar by the learned counsel for the petitioner that Exhibit-5 has thereafter being not pressed by the learned counsel for the original disputant. The challenge is to this order dated 18.11.2019 by the petitioner has been rejected by Judgment dated 09.08.2020, wherein it has been opined that upon a preliminary inquiry, the learned Appellate Court was of the opinion that it was not a fit case in which, a complaint should be lodged under Section 340 of the Cr.P.C. as *prima facie* there was no material to indicate that disputant had committed an offence under Section 195 of Cr.P.C. in judicial proceedings before the Co-operative Court by making false statement on oath (Page-81). The question, as to whether indeed, a false statement on oath has been made or not is for the learned Co-operative Court to decide based upon the material produced before it. When it opines, that the material produced before it would require evidence to be recorded, that is an opinion rendered by the Court of first instance, which has been confirmed by the Appellate Court, which finding, ought not be interfered by this Court, under Article 227 of the Constitution of India. In that view of matter, I am not inclined to interfere with the impugned order of the Co-

operative Court and Judgment of the learned Co-operative Appellate Court. The petition is therefore dismissed. No costs.

(AVINASH G. GHAROTE, J.)