

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

FIRST APPEAL (ST) NO.33552 OF 2024

Bindia Jayendra Garasia w/o Nilesh Mehta

& Ors.

... Appellants

V/s.

M/s. Saket Co-Op. Hsg. Ltd., Mumbai & Ors.

... Respondents

WITH

INTERIM APPLICATION NO.15774 OF 2024

IN

FIRST APPEAL (ST) NO.33552 OF 2024

WITH

INTERIM APPLICATION NO.15775 OF 2024

IN

FIRST APPEAL (ST) NO.33552 OF 2024

Mr. Nilesh Mehta, CA for Bindia Jayendra Garasia is present.

Mr. Abhishek Yadav a/w Sumandevi Yadav for Respondent No.1-Society.

Ms. Vaishali Sanghvi a/w Nishant Sashidharan for Respondent No.3.

CORAM : ARIF S. DOCTOR, J.

DATE : 18TH DECEMBER 2024

P.C. :

1. Learned Counsel appearing on behalf of Respondent No.1-Society submitted that despite filing of the caveat, a copy of the present First Appeal and Interim Application was not served upon them.

2. Mr. Nilesh Mehta sought to appear in person. On a query from the Court as to whether he has been granted permission to appear in person, he handed over an email copy of dated 23rd September 2024, by which the Registrar (Judicial) has directed as follows:-

“Under directions, it is to inform you that the Committee has no power to accord permission to the Constituted Attorney/Power of Attorney. The permission can be granted by the Court.”

3. He thus basis the above sought permission of the Court to appear stating that he was the Power of Attorney Holder of his wife, who is one of the Appellants in the First Appeal.

4. At this stage, Learned Counsel for Respondent No.1-Society brought to my notice the order dated 3rd October 2024 passed by this Court (Milind N. Jadhav, J.) by which this Court has after noting the conduct of Mr. Nilesh Mehta held as follows:-

“5. The Constituted Attorney of Writ Petitioner appearing before me is completely bereft of the Court procedures and he is not in a position to assist the Court at all. He also informed me that today he mentioned the present matter which was at serial No.71 before the Division Bench (Coram B.P Colabawalla & F.P. Pooniwalla, JJ.). He however did not inform me that the Court had passed the order directing the Registry to verify and place the matter before appropriate Court. Hence the Constituted Attorney is unfit for appearing before the Court as he has suppressed this order passed today from me and does not have the time to wait for the Registry

to verify his Petition. However due to his persistent request, I have considered his praecipe which he has filed. What I find is that against the Judgement and decree passed by the Trial Court, he has filed a Writ Petition which is clearly not maintainable. When such a Writ Petition is lodged by the Registry, it is the duty of the Registry to verify the reliefs prayed for and the impugned order / judgement / decree. In so far the roster of this Court is concerned, it pertains to all orders passed by Civil Court under the Code of Civil Procedure, 1908 (for short 'CPC'). The impugned judgement / decree is not an interlocutory order by the Civil Court, rather it is a final judgement / decree in a declaratory Suit."

5. It is absolutely regrettable that despite this order, Mr. Nilesh Mehta today attempted to appear in person. Such conduct will not be countenanced by this Court. It is made clear that if on the next date, the Appellants are not represented by the Advocate, the captioned First Appeal shall be dismissed for want of prosecution.

6. Stand over to 29th January 2025.

(ARIF S. DOCTOR, J.)