

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1483 OF 2024

Pranali Prakash Chaudhari	...Petitioner
<i>Versus</i>	
The State of Maharashtra & Ors	...Respondents

Mr S Bharucha, *with Jamshed Master, i/b, Mangesh D Chavan, for the Petitioner.*

Mr Suraj Gupte, AGP, *for the Respondent-State.*

Ms Pooja Yadav, *for the Respondent-BMC.*

Ms Sayli Apte, *with Shreya Shah, i/b, PG Lad, for Respondents Nos 2, 3-MHADA.*

Mr Mayur Khandeparkar, *(online) with Sanjeel Kadam, i/b, Kadam & Co, for Respondent No 5.*

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 8th April 2024

PC:-

1. The law does not permit such a Petition to be maintained. There is no question of permitting a withdrawal of a Petition that ought never to have been filed. It is not maintainable. Ten members of a society of 565 members come and make a grievance. The other 555 members do not join in this complaint. We are asked to believe that these 10 members can secede from the Society of which they are members, virtually raise a flag of independence, and proceed

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against the developer *and* against a society, i.e., against the interests of other members. That law has been settled for several decades. These individual members are bound by the decisions of the society taken by a majority. We recently reiterated it in the case of *Deepak Prabhakar Thakoor & Ors v MHADA & Ors*.¹ If they do not like those decisions of the Society, their remedies lie elsewhere. It is undeniable is that none of the other 555 members of the society are supporting the cause of these 10 Petitioners.

2. The grievance about non-payment of transit rent is *ex facie* absurd. The Petitioners have simply not collected the cheques. They have signed letters on the same basis as all other tenants. Permanent Alternate Accommodation Agreements were signed a long time ago. It is also not disputed that the developer, 5th Respondent is not just a developer, but is also an owner of the property in question.

3. We are making no observation and passing no directions in regard to how these Petitioners must be treated going forward or what arrangements need to be made in regard to the amounts that were available to them but which they did not collect. That is not, in any case, a matter of public law. It is purely a private arrangement between some members of the 6th Respondent society and the 5th Respondent owner/developer.

4. And of course there is the factor that the Petitioners offer no form of security for any loss or prejudice that may be caused to the

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555 members of their own Society (even leaving the prejudice to the owner/developer).

5. The Petition is rejected. There will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)