

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.147 OF 2024

Vibhushan Estates Private Limited ...Plaintiff
Versus
District Deputy Registrar
Co-operative Societies, Mumbai-IV
and the Competent Authority & Ors. ...Defendants

WITH
INTERIM APPLICATION (L) NO.9716 OF 2023
IN
SUIT NO.147 OF 2024

Vibhushan Estates Private Limited ...Applicant
Versus
District Deputy Registrar
Co-operative Societies Mumbai-IV
and the Competent Authority & Ors. ...Respondents

Mr. Gautam Ankhad a/w. Mr. Sunny Shah, Mr. Viral Dilip Shukla, Ms. Priti Viral Shukla and Mr. Rudra Dani, Advocates, i/b. M/s. Shukla & Associates, for the Plaintiff.
Mr. H. B. Takke, AGP, for the Defendant No.1.
Mr. Shreepad Murthy, Advocate, i/b. Mr. Abhishek Patil, for the Defendant No.2.
Mr. Harshad Nair, Committee Member of Defendant No.2-Society present.
Mr. Atul Singh, Advocate, for the Defendant No.3.
Ms. Pragya, Advocate, i/b. M/s. Legal Vision, for the Defendant Nos. 4 to 6.
Mr. Brijesh Nittekar and Mr. Ankush Shah, Advocates, i/b. SL Partners, for the Defendant No.17.

CORAM: MADHAV J. JAMDAR, J.
DATED : 20th JUNE 2024

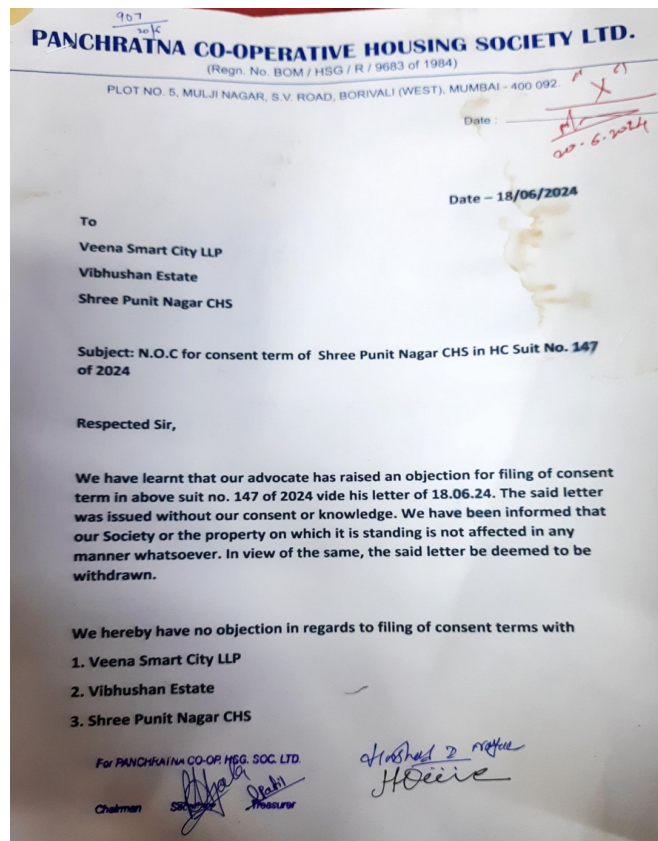
P. C.:

1. Heard learned Counsel for the Plaintiff and learned Counsel for Defendant Nos.2, 3, and 17.

2. Today the matter is placed before this Court for filing Consent Terms between the Plaintiff and Defendant Nos.3 and 17. It is the submission of Mr. Ankhad, learned Counsel for the Plaintiff that the Plaintiff is filing the Consent Terms only with respect to Defendant Nos.3 and 17 and that the Suit will continue to be pursued against other Defendants. He further submits that the rights of the Defendant No.2 are not at all affected by the Consent Terms which are being filed.

3. Mr. Murthy, learned Counsel for the Defendant No.2 denies the said contention.

4. However, a very significant fact is required to be noted that learned Counsel for the Defendant No.17-New developer has produced a letter dated 18th June 2024 of Defendant No.2-Panchratna Co-operative Housing Society Limited, for whom Mr. Murthy, learned Counsel appears. Mr. Murthy states that he has no instructions concerning the said letter. The said letter is signed by the Secretary and the Treasurer of the Society. The Chairman of the Society has not signed the said letter. The said letter is taken on record and marked 'X' for identification. The said letter is scanned and produced herein below:



Learned Court Associate to keep the said letter in a sealed envelope.

5. It is surprising to note that the Consent Terms are between the Plaintiff and the Defendant No.3 and Mr. Harshad Nair, a member of Defendant No.2-Society is present in Court without any notice. He states that the Defendant No.2 has no objection if the Consent Terms are taken on record. However, on a query of the Court, he confirmed that there is no General Body Meeting Resolution passed by the Society regarding said aspect.

6. It is significant to note that the dispute is regarding Deemed Conveyance and without there being any General Body Resolution passed by the Defendant No.2-Society, the Defendant No.17 who claims to be the new developer has produced a letter allegedly issued by the Defendant No.2-Society, giving consent to take on record the said Consent Terms between the Plaintiff, the Defendant Nos.3 and the Defendant No.17.

7. Mr. Murthy, learned Counsel for the Defendant No.2-Society states that he has no knowledge of said letter dated 18th June

2024. He states that as per his instructions no such letter has been issued by the Defendant No.2-Society. Admittedly, the said letter dated 18th June 2024 purportedly issued by the Defendant No.2-Society is not issued on the basis of General Body Resolution. There is nothing on record to indicate that the said letter is issued by the Defendant No.2-Society after taking legal advice and after considering whether the Consent Terms executed between the Plaintiff, the Defendant No.3 and the Defendant No.17 has any bearing on the rights of the Defendant No.2-Society.

8. Accordingly, the Plaintiff, Defendant No.2, Defendant No.3, and Defendant No.17 to file affidavits explaining the position. Let such affidavits be filed on or before 28th June 2024. Rejoinder if any, be filed on or before 4th July 2024.

9. Stand over to **5th July 2024**. To be listed **first on the Supplementary Board**.

[MADHAV J. JAMDAR, J.]