

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 817 OF 2024**

Manoj Yeshwant Bhandari & Ors.

... Petitioners

V/s.

Municipal Corporation Of Greater Mumbai & Ors.

... Respondents

Mr. V.H. Narvekar i/b. Mr. J. N. Jain for Petitioners.

Ms. Sheetal Metakari i/b. Ms. Komal Punjabi for BMC.

Mr. Ajit O. Upadhyay a/w. Mr. R.A. Siddiqui for Respondent No.4.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.****DATE : 26th November 2024.****P.C. :**

1) By the present Petition, the Petitioners have prayed for writ of mandamus or any other writ or direction, directing the Respondent No.3, its agents and servants or any other person acting on behalf of it to withdraw the impugned Notices dated 30th November 2022 along with demolition Notice dated 23rd January 2023 and for declaration that the impugned Notices are bad in law and for other consequential reliefs.

1.1) It is an admitted fact on record that, the Petitioners are members of Respondent No.4 – Sai Heaven Co-operative Housing Society Limited. The

Respondent No.4-Society as a legal entity has not approached this Court being aggrieved by issuance of the said Notices and the Petitioners in their personal capacity, being members of Respondent No.4 have filed present Petition for reliefs as stated hereinabove.

2) The Constitution Bench of the Hon'ble Supreme Court in the case of *Daman Singh & Ors. Vs. State of Punjab & Ors., reported in (1985) 2 SCC 670*, in para No.11 has held as under :-

11. We have no hesitation in rejecting this submission also. Once a person becomes a member of a cooperative society, he loses his individuality qua the society and he has no independent rights except those given to him by the statute and the bye-laws. He must act and speak through the society or rather, the society alone can act and speak for him qua rights or duties of the society as a body. So if the statute which authorises compulsory amalgamation of cooperative societies provides for notice to the societies concerned, the requirement of natural justice is fully satisfied. The notice to the society will be deemed as notice to all its members. That is why Section 13(9)(a) provides for the issue of notice to the societies and not to individual members. Section 13(9)(b), however, provides the members also with an opportunity to be heard if they desire to be heard. Notice to individual members of a cooperative society, in our opinion, is opposed to the very status of a cooperative society as a body corporate and is, therefore, unnecessary. We do not consider it necessary to further elaborate the matter except to point out that a member

who objects to the proposed amalgamation within the prescribed time is given, by Section 31(11), the option to walk out, as it were, by withdrawing his share, deposits or loans as the case may be.

3) In view thereof, according to us, the Petitioners have no independent right to be exercised and they have no locus standi to file present Petition for the reliefs as prayed for by them.

4) Petition is accordingly dismissed.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)

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