Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2892 OF 2024

Bharat Vasant Kadekar & Ors. …Petitioners
Versus
State of Maharashtra & Ors. …Respondents

Mr. Gauraj Shah a/w Mr. Nikhil Mengde & Mr. Siddhesh Dalvi, for the Petitioners.
Mr. Milind More, Addl. GP, for Respondent Nos.1, 4 & 5—State.
Mr. Mayur Khandeparkar a/w Mr. Saket Mone, Mr. Suneet Tyagi, Ms. Krishna Raja, Ms. Srushti Thorat & Mr. Devansh Shah i/b Vidhii Partners, for Respondent No.2.
Mr. Shishir Joshi i/b Mrs. Priti Joshi, for Respondent No.3.

CORAM: MADHAV J. JAMDAR, J.
DATED: 16 JULY 2024

P.C.:

1. Heard Mr. Shah, learned Counsel for the Petitioners, Mr. Khandeparkar, learned Counsel for Respondent No.2, Mr. Joshi, learned Counsel for Respondent No.3 and Mr. More, learned Additional GP for the Respondent Nos.1, 4 and 5—State.

2. The challenge in this Writ Petition preferred under Article 226 of the Constitution of India is to the legality and validity of the Order dated 4th July 2023 passed by the Minister, Department of Co-operation, Marketing and Textile, State of Maharashtra in Revision Application No.310 of 2023 ("impugned Order"). By the impugned

Order, the Revision Application filed by the Respondent No.2–Developer has been allowed by setting aside *inter alia* Order dated 18th October 2022 of the Divisional Joint Registrar, Co-operative Societies, M-Ward, Mumbai as well as Order dated 18th May 2023 of the Deputy Registrar, Co-operative Societies, M-Ward, Mumbai by which the Respondent No.2 – Society has been directed to implement the process for selection of the Developer to carry out the redevelopment process of the Respondent No.3 – Society building afresh in accordance with the Government Circular dated 3rd January 2009.

3. It is the submission of Mr. Shah, learned Counsel for the Petitioners that the Circular dated 3rd January 2009 issued by the Co-operation Department under Section 79A of the *Maharashtra Co-operative Societies Act, 1960*, has not been followed. He pointed out Clause No.8(c) of the said Circular dated 3rd January 2009. He submitted that the Respondent No.2 – Developer was selected by the Society in the year 2013. He submitted that the offer which was accepted of the year 2012 has been substantially reduced in the year 2022 and in spite of that the Society had accepted the said reduction in the offer without inviting fresh tenders. He submitted that if fresh tenders/offers would have been invited from the prospective Developers then there would have been an open competition and the members of the Society would have benefited. He pointed out that the carpet area which was to be provided to the members as per the 2012 offer has been considerably reduced in the 2022 offer. He therefore submitted that the impugned Order is required to be quashed and set aside and the Society is required to be directed to issue a fresh tender and invite fresh offers from various developers so as to ensure that the members of the Society receive the best offer after a fully competetive process.

4. On the other hand, Mr. Joshi, learned Counsel for the Respondent No.3–Society has relied on the decision of a Division Bench of this Court in ***Nirmala A. Pillai v. Shubham Builders*** [1]. He submitted that it is settled law that the Circular which has been issued under Section 79A is merely directory and not mandatory. He pointed out the Minutes of Special General Body Meeting held on 3rd July 2022. He submitted that the Respondent No.3–Society is having a total of 136 members. Out of said 136 members, 105 members attended the said meeting. Out of 105 members, 85 members voted in favour of the 2022 offer of the Respondent No.2–Developer and only 16 members rejected the said offer. He therefore submitted that about 83% of the members who have attended the said meeting and duly voted, have voted for the redevelopment by the Respondent No.2–Developer. Mr. Joshi, learned Counsel for the Respondent No.3–Society produced a chart containing relevant dates and events and submitted that the Society has maintained complete transparency. He pointed out the Feasibility Report

1 2024 DGLS(Bom.) 1809

of the Project Management Consultant which is annexed at Page Nos.70 to 81 of the Compilation of Documents submitted by the Respondent No.3. He submitted that the Society had made the decision in a transparent manner. He therefore submitted that the Writ Petition be not entertained.

5. Mr. Khandeparkar, learned Counsel for Respondent No.2—Developer pointed out the difference between the 2012 offer and 2022 offer. He submitted that, due to DCPR 2034, many changes are required to be made and therefore a revised offer was made. He submitted that, earlier, under DCR 1991, members were not required to vacate their premises and therefore rent is not required to be paid. He pointed out the difference which is required to be made regarding redevelopment between DCR 1991 and DCPR 2034.

6. Before considering the rival contentions, it will be beneficial to set out the Chronology of Dates and Events as furnished by Mr. Joshi, learned Counsel for the Respondent No.3.

CHRONOLOGY OF DATES AND EVENTS

Sr. Nos.	Date	Particulars
1.	16.04.1965	Suman CHSL – (R-3) is situated Plot bearing Survey No.357-A/2, 357-A, Plot No.1 of Chembur corresponding to CTS Nos.349, 349/1 and 349/2 of Village Chembur, Taluka Kurla, at V. N. Purav Marg, Chembur, Mumbai-400 071 admeasuring about 20,236.4 sq. mtrs. (Government Land granted in Form HH-1 dated 16.04.1965 by Addl. Collector, Mumbai).
	24.08.1968	826 sq.mtrs. area is handed over to BMC for Road widening.

<table>
<tr><td>2.</td><td>10.10.2006</td><td>770 sq. mtrs. area is handed over to BMC for Road Widening.
At present, approximately 165.50 sq. mtrs. on South Side is falling under set-back subject to final & actual demarcation and measurement.</td></tr>
<tr><td>3.</td><td>1968-1970</td><td>Buildings are constructed of following types:-
<table>
<tr><td>Building A-1 & A-2</td><td>Each having 8 Residential Flats;</td></tr>
<tr><td>Building B-1, B-2, B-3 & B-4</td><td>Each having 8 Residential Flats;</td></tr>
<tr><td>Building B-5</td><td>Having 8 Residential Flats;</td></tr>
<tr><td>Building B-6 & B-7</td><td>Each having 8 Residential Flats;</td></tr>
<tr><td>Building C-1, C-2, C-3, C-4, C-5, C-6, C-7 and C-8.</td><td>Each having 8 Residential Flats;</td></tr>
</table></td></tr>
<tr><td>4.</td><td>03.02.2013</td><td>Kalpataru Ltd. (KTL) is appointed in SGBM as Developer in the presence of Dy. District Registrar, Cooperative Societies, “M” Ward, Mumbai by following Guidelines dated 03.01.2009 i/u. S.79A of MCS Act.</td></tr>
<tr><td>5.</td><td>05.03.2013</td><td>Dy. District Registrar, Co-op. Society, “M” Ward, Mumbai confirmed appointment of KTL as developer of Society.</td></tr>
<tr><td>6.</td><td>13.02.2013</td><td>Society issued Letter of Acceptance to KTL confirming the appointment.</td></tr>
<tr><td>7.</td><td>23.01.2015</td><td>Memorandum of Understanding (MOU) is executed between Society & KTL.</td></tr>
<tr><td>8.</td><td>23.02.2015</td><td>Government of Maharashtra declared its intention to Publish Draft Development Plan for Mumbai & invited suggestions & objections.</td></tr>
<tr><td>9.</td><td>27.10.2015
&
28.11.2016</td><td>By its Resolution followed by Letter Society extended the validity period of MoU dated 23.01.2015 till 22.10.2016 & thereafter till expiry of Nine (9) months from the later –
(i) date when State Government issues policy pertaining to redevelopment of Cooperative Housing Society buildings on Government Lands, or
(ii) date when final Development Plan for Mumbai is notified by Government.</td></tr>
<tr><td>10.</td><td>12.11.2018</td><td>After much delay, Government of Maharashtra finally published the same completely Final Dev. Plan & D.C.P.R. – 2034.</td></tr>
<tr><td></td><td>08.03.2019</td><td>Government of Maharashtra declared their Policy “The Maharashtra Land Revenue (Conversion of Occupancy</td></tr>
</table>

11.		Class-II Land or Leasehold Lands into Occupancy Class-I Lands) Rules, 2019" which are applicable to Society.
12.		In view thereof, the time period of Nine (9) months (as contained in SGBM Resolution dated 27.11.2016 to commence redevelopment) was effective till 7.12.2019.
13.	31.03.2019	Society requested the said KTL to proceed further with redevelopment since DCPR – 2034 & Policy of redevelopment of Cooperative Housing Societies on Government land was finally published & notified.
14.		**In view of the impact of DCPR – 2034, KTL issued their Modified Offer contemplating complete vacating of the property for redevelopment instead of phase-wise redevelopment which members of the Society have subsequently agreed.**
15.	30.04.2019	**Managing Committee (MC) of Society requested KTL to provide their best offer upon considering the impact of DCPR 2034 & Policy on Redevelopment of Co-op. Housing Societies on Government land.**
16.	10.06.2019	**KTL thereafter provided their improved Revised Offer dated 10.06.2019 to the Society.**
17.	21.06.2019	**MC of Society requested KTL to enhance offer.**
18.	29.08.2019	**KTL raised by their improved Offer dated 29.08.2019 and after certain discussion with MC provided their further Offer dated 03.12.2019 to Society.**
19.		**General Body of Society consulted its Project Management Consultant ("PMC") to analytically study DCPR 2034 & Policy for Redevelopment of Cooperative Housing Societies on Government Land & to provide a Comparative Statement on maximum impact of provisions of DCPR 2034 on redevelopment potential of Society property.**
20.	30.06.2019	**MC of Society circulated the Project Feasibility Report dated 27.05.2019 prepared by Society PMC to its members.**
21.		As per Society PMC Report – instead of 15,058 sq. mtrs., only 13,677 sq. mtrs. land is available for redevelopment under DCPR-2034, Amenity Open Space area is increased resulting in a loss of 1381 sq. mtrs. area & corresponding FSI, Various Premiums are also enhanced substantially under

<table>
<tr><td></td><td></td><td>DCPR-2034.</td></tr>
<tr><td>22.</td><td>04.07.2019</td><td>Government of Maharashtra issued new Guidelines under Sec. 79A of MCS Act.</td></tr>
<tr><td>23.</td><td>11.08.2019</td><td>General Body of Society resolved to & appointed Development Committee (DC) to assist Managing Committee in redevelopment.</td></tr>
<tr><td>24.</td><td>14.10.2019</td><td>Around October-November, 2019 certain members of the then Managing Committee of Society resigned and Administrator is appointed on 14.10.2019.</td></tr>
<tr><td>25.</td><td>07.12.2019</td><td>Period of Nine (9) months referred above (at Sr. 11 above) expired.</td></tr>
<tr><td>26.</td><td>28.11.2019</td><td>Upon the representations of General Body of Society, Hon’ble Dy. Registrar, “M” Ward was pleased to appoint Three (3) members viz. (i) Sujata Haralkar, (ii) Sudhir Shende & (iii) Vishwajit Savant vide Letter dated 28.11.2019 to act as Administrators for temporary day-to-day functioning of Society.</td></tr>
<tr><td>27.</td><td>10.12.2019</td><td>Three (3) members viz. (i) Sujata Haralkar, (ii) Sudhir Shende & (iii) Vishwajit Savant took charge.
However being temporary Administrators, they had no power to take any policy decision.</td></tr>
<tr><td>28.</td><td>07.03.2021</td><td>Pending the Elections for New Managing Committee, the General Body of Society authorized the Development Committee & the Provisional Committee of Three (3) persons to discuss with KTL on redevelopment modalities.

SGBM is attended by Petitioners who did not object to the same.</td></tr>
<tr><td>29.</td><td></td><td>General Body of the Society decided & circulated Specimen Cyclostyle Preference Forms to its Members & convened the SGBM on 02.10.2021.</td></tr>
<tr><td>30.</td><td>02.03.2021</td><td>SGBM Result on the Specimen Cyclostyle Preference Forms scrutinized is as under-
<table>
<tr><td>Out of 136 members, 116 duly signed Form were received.</td><td></td></tr>
<tr><td>87 Members</td><td>Opted choice of vacating the entire property & hand it over to the KTL.</td></tr>
<tr><td>17 Members</td><td>Opted choice of vacating the property phase-wise & to proceed with redevelopment.</td></tr>
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<tr><td></td><td></td><td><table><tr><td>12 Members</td><td>Did not opt for any of the choice.

Some of the said 12 members, suggested for explore possibility of new Developer and also suggested to repair the building and stay without redevelopment.</td></tr></table>
Thus Eighty Seven (87) members (63.97%) of Society opted for Redevelopment with KTL in modified manner.</td></tr>
<tr><td>31.</td><td>21.10.2021</td><td>Upon Society’s persistent discussions, KTL thereafter issued its Further Offer wherein Rs.68 Crores is offered as Corpus amount & 78% extra area is offered over & above existing area.</td></tr>
<tr><td>32.</td><td>04.12.2021</td><td>Election of Society are held & New Managing Committee is appointed.</td></tr>
<tr><td>33.</td><td>26.12.2021</td><td>SGBM is convened & majority members unanimously resolved to accept the KTL Offer dated 21.10.2021, in principle, subject to finalization on advice of Society PMC.</td></tr>
<tr><td>34.</td><td>14.02.2022
&
20.02.2022</td><td>Society once again requested the said KTL to attend SGBM.</td></tr>
<tr><td>35.</td><td>12.06.2022</td><td>Representatives of KTL again clarified, explained & answered all the doubts & queries of members in SGBM.</td></tr>
<tr><td>36.</td><td>15.06.2022</td><td>Upon insistence of Society General Body, KTL once again issued their Revised Commercial Offer dated 15.06.2022 which was circulated to Society members. Petitioners are aware of the same.</td></tr>
<tr><td>37.</td><td>18.06.2022</td><td>Society issued its Notice dated 18.06.2022 to all its members with Agenda convening a SGBM calling upon the members either to Accept the revised Commercial Offer dated 15.06.2022 or reject the same with refund of Earnest Money Deposit of Rs.2,00,00,000/- received from KTL.
The Society also issued specimen format of the Ballot paper to its members along with the Notice dated 18.06.2022.</td></tr>
<tr><td>38.</td><td>03.07.2022</td><td>In all 105 Members (77.20%) out of 136 members of Society attended the said SGBM.
85 members (80.95%) present therein voted in favor of the KTL Revised Final Offer dated 15.06.2022.</td></tr>
</table>

39.	02.08.2022	Upon request of & in reciprocation of such overwhelming response of members of Society, KTL issued their Further Revised Final Offer dated 2nd August, 2022.
40.	05.08.2022	**Society accepted the KTL Offer and issued its Letter of Acceptance to KTL.**
41.	21.09.2022	KTL forwarded their Draft Development Agreement (DA) to Society for suggestions / corrections / inputs by members. Petitioners also attended the SGBM to discuss the draft Development Agreement.
42.	29.09.2022	KTL explained their Finantials before Society SGBM.
43.	21.09.2022 31.10.2022 03.11.2022	Complaints filed by Petitioner to the Hon'ble Divisional Joint Registrar, "M" Ward. Mumbai.
44.	12.12.2022	Society attended hearing & submitted all relevant Judgements in hearing & made submissions.
45.	09.02.2023	Ignoring Submissions of Society & the Judgements cited, the Hon'ble **Divisional Joint Registrar, "M" Ward, by its Order / Communication recommended to Hon'ble Dypt. Registrar, that Society should recommence the redevelopment process under new Guidelines dated 04.07.2019 under Sec. 79A - MCS Act.**
46.	27.02.2023	Hon'ble Dypt. Registrar directed Society to undergo the process of redevelopment under new Guidelines dated 04.07.2019 i/u. Sec. 79A of MCS Act.
47.	08.03.2023	Society requested the Hon'ble Div. Joint Registrar, M Ward to relook the merits & facts of the matter and reconsider the Communication / Order dated 27.02.2023. Society also forwarded all relevant documents.
48.	05.04.2023	Hon'ble Dypt. Registrar declined to entertain the merits of the matter on the ground of being "Functus Officio".
49.	18.05.2023	Hon'ble Dypt. Registrar, once again directed Society to undergo redevelopment process under new Guidelines dated 04.07.2019 issued under Sec. 79A of MCS Act.
50.	04.07.2023	KTL preferred Revision & impugned Order is passed.

51.		Managing Committee & Development Committee of Society redrafted the Development Agreement and the same is pending consideration.

(Emphasis added)

7. The factual position as set out herein above shows that on 3rd February 2013, the Respondent No.2—Developer has been appointed by following the Guidelines dated 3rd January 2009 issued under Section 79A of the *Maharashtra Co-Operative Societies Act 1960* ("said Act"). It is also significant to note that as the State Government was considering change in policy pertaining to re-development of co-operative housing society buildings on the government lands, the Society decided to extend the validity period of the Memorandum of Understanding executed between the Respondent No.2—Developer and the Respondent No.3-Society. Thereafter, DCPR 2034 came into force in 2018. The Government of Maharashtra on 8th March 2019 framed Rules i.e. *The Maharashtra Land Revenue (Conversion of Occupancy Class-II Land or Leasehold Lands into Occupancy Class-I Lands) Rules, 2019* which are applicable to the Society. Thereafter, due to DCPR 2034, there were certain changes in the offer and accordingly the Society even took advice of its Project Management Consultant and raised several queries. The Respondent No.2—Developer pursuant to General Body Meeting of the Society which took place on 14th February 2022 and 20th February

2022 submitted Revised Commercial Offer on 15th June 2022 and the said Revised Commercial Offer of the Respondent No.2-Developer has been accepted by overwhelming majority of the members of the Respondent No.3–Society in its Special General Body meeting held on 3rd July 2022. Thus, it is clear that the Society had made the decision in a transparent manner and the members of the Society by an overwhelming majority made an informed decision to accept the 2022 revised offer of the Respondent No.2–Developer.

8. It is also necessary to set out that the Society had held a Special General Body Meeting on 3rd July 2022 for considering following two Resolutions:

> "*A) It is hereby* ***resolved that the revised commercial offer dated 15th June 2022 given by the developer Kalpataru Ltd. for the redevlopment of Suman Co-operative Society Ltd. be accepted*** *by the majority of the members and it is further resolved that the managing committee along with the development committee of the society is hereby authorised to take appropriate steps to execute the development agreement with the developer Kalpataru Ltd.*
>
> ***OR***
>
> *B) It is hereby resolved that* ***the revised commercial offer dated 15th June 2022, given by the developer Kalpataru Ltd. for the redevelopment of Suman Co-operative Society Ltd. be rejected*** */ declined by the majority of the members and it is further resolved that the managing committee along with the development committee of the society is hereby authorised to take appropriate steps in consultation with Society's Legal Advisor to refund the Earnest Money Deposit given by Developer Kalpataru Ltd. and cancel the Memorandum of Understanding executed with the said Kalpataru Ltd. intimating the developer Kalpataru Ltd. of such decision.*"
>
> (Emphasis added)

It is significant to note that the said Special General Body Meeting was attended by about 105 members out of total 136 members of the Respondent No.3–Society. Out of the 105 members who were present, 85 members have voted in favour of the Resolution-A, 16 have voted in favour of the Resolution-B and votes of about 4 members have been rejected. Thus, it is clear that an overwhelming majority of members who were present and voted i.e. 80.95% members of the Society have voted in favour of the Resolution-A. It is also significant to note that about 62.05% members of the Society (i.e. 85 out of 136) have voted in favour of the Resolution-A. Thus, majority of the members have voted in favour of the Resolution-A.

9. As far as the contention of learned Counsel for the Petitioners that the Builder will be benefitted more in the redevelopment under DCPR 2034. Mr. Shah, learned Counsel has pointed out the chart which is at Page No.50 of the Compilation of Documents i.e. part of the Feasibility Report. The said Chart reads as follows:

		DCR 1991 (As per MOU Annex. XV)	DCPR 2034
1	Land Area as per PRC	20,236.40 smt.	20,236.(40) smt.
2	Balance area for FSI purpose	15,703.67	17,126.70
3	Total permissible BUA	34,178.57	42,816.75
4	Total permissible BUA including Fungible BUA	46,141.06	57,802.61
5	Maximum FSI	2.70	3.375

6	Existing BUA	10,556.10	10,556.10

Mr. Khandeparkar, learned Counsel for the Respondent No.2 submitted that although as per the said chart FSI has increased, however, the same is explained in Paragraph No.4 of the Affidavit 8th July 2024 filed by the Respondent No.2. The said Paragraph No.4 reads as under:

> "*4. Originally the plot (physical) of Respondent No.3 Society available for development was 15,703 sq. mtrs. However, due to the change in law i.e. development regulations by the Brihanmumbai Municipal Corporation (**BMC**), in view of Setbacks, Amenity Open Space area etc.* ***the area of the Plot (physical) available for development got reduced to 12,314 sq. mtrs.*** *i.e. about 15% approximately. Pursuant to the request made by Respondent No.3 Society, revised offer/s were given by Respondent No.2. The revised offer has been duly accepted by the Respondent No.3 Society.*"
>
> **(Emphasis added)**

10. In paragraph No.5 of the said Affidavit dated 8th July 2024 difference between the 2012 offer and 2022 offer is set out. The same reads as under:

Offer dated	**14th Aug 2012 & 20th Dec 2012**	**15th June 2022, 27th June 2022, 2nd August 2022 & 6th November 2023**
Mode	Partial Vacating by Members	Full vacating by Members
Additional CA	151% (MOFA)	65% (MOFA). Approx. 70% (RERA).
Corpus	Rs.126 crore.	Rs.65 crores.
Rent	**NIL** ** Not payable, as the development was to be carried out in phase wise*	Rs.90 per sq.ft. with 10% escalation every year i.e. Rs.35.32 crores to 136 members for total

	manner without vacating existing buildings	construction period of 36 months. In the event construction is not completed within the period of 36 months, R2 Developer will continue to pay rent with same escalation of 10% as earlier.
Brokerage	**NIL***	One month's rent every year i.e. Rs.2.94 crores.
Shifting	**NIL***	Lump – sum – Rs.60,000/- i.e. Rs.81.60 Lakhs
Repair Cost Reimbursement	**NIL***	Rs.3 crores
Rent for Society's Office	**NIL***	Rs.25,000 per month plus 10% increment every year i.e. Rs.9.93 Lakhs
Society's Lien (charge)	**NIL**	On 15,000 sq.ft. Sale RERA carpet area as security.

11. Thus, it is clear that there is vast difference between the 2012 offer and 2022 offer regarding several aspects. The factual position on record clearly shows that, an overwhelming majority of the members of the Respondent No.3—Society had accepted the revised 2022 offer of the Respondent No.2—Developer. Thus, the members of the Society have taken a commercial call and the Writ Court is not expected to examine whether the decision taken is proper and beneficial to the Society. It is required to be noted that only 4 out of 136 members of the Respondent No.3—Society have filed this Petition.

12. Mr. Khandeparkar, learned Counsel for Respondent No.2 has relied on the decision of the Supreme Court in ***Daman Singh v. State of***

Punjab [2] and submitted that as per settled law, once a person becomes a member of a co-operative society, such person loses individuality and that he or she has no independent rights, except those given by the statute and the bye-laws.

13. Mr. Shah, learned Counsel for the Petitioners has relied on Bye-Law No.175(A) of the Respondent No.3-Society which provides that redevelopment of the Property/Building of the Society including vacant spaces shall be done strictly in accordance and conformity with the directions issued by the Government of Maharashtra *vide* Government Resolution Dated 3rd January 2009. In this respect, it is required to be noted that the Respondent No.2 has been selected as Developer in the year 2012-2013 after complying with the procedure as contemplated by Circular dated 3rd January 2009 issued under Section 79A of the said Act by the Co-operation Department of the State of Maharashtra. In the year 2022 only variation in offer or revised offer of the Respondent No.2 was under consideration and, in fact, Society convened a Special General Body Meeting to decide whether to accept the said revised offer or to reject the same or to invite the tenders from other Developers, however, as noted herein above, overwhelming majority of the members of the Respondent No.3–Society in the Special General Body Meeting held on 2nd March 2021 have decided to accept the revised offer of the Respondent No.2. Therefore, there is no substance in the said

2 (1985) 2 SCC 670

contention raised by learned Counsel for the Petitioners.

14. Mr. Joshi, learned Counsel for Respondent No.3 and Mr. Khandeparkar, learned Counsel for Respondent No.2 have submitted on the basis of the decision in ***Mohinder Kaur Kochar v. Mayfair Housing Pvt. Ltd.*** [3] that the remedy in such a case is not the dispute under Section 91 of the *Maharashtra Co-operative Societies Act, 1960* and the remedy is to institute a Suit.

15. Mr. Khandeparkar, learned Counsel for Respondent No.2 is also right in pointing out that the Resolution passed by the General Body Meeting of the Respondent No.2—Society in the meeting held on 3rd July 2022 has not been challenged by the Petitioners by filing appropriate proceedings.

16. As per settled law, the scope of exercise of power under Article 226 of the Constitution of India is well established. It is a discretionary and equitable jurisdiction which is not to be exercised for correction of every error. In this particular case, as an overwhelming majority of the members of the Society have made a decision to accept the 2022 offer of the Developer, no interference in the impugned Order under Article 226 of the Constitution of India is warranted.

17. For the above reasons, the Writ Petition is dismissed with no order as to costs.

[MADHAV J. JAMDAR, J.]

3 2012 (6) Bom CR 194; 2013 (1) MhLJ 389