



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

21 WRIT PETITION NO. 6334 OF 2022

VIJAYKUMAR MAROTIRAO BHALERAO

VERSUS

ZILLA PARISHAD EMPLOYEES CO-OPERATIVE HOUSING SOCIETY LTD.
AND ANOTHER

...

Mr. A. K. Shingare h/f Mr. L. H. Kawale, Advocate for the Petitioner
Mr. S. V. Dixit, Advocate for Respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 29th SEPTEMBER, 2025

P.C. :-

1. By consent of both sides, heard finally at the stage of admission.
2. This Petition takes exception to the order dated 07/01/2022 passed by Co-operative Court below Exhibit 129 in Dispute No. 86/2016, whereby additional issues were framed with regard to as to whether he is member and allottee of the opponent society and that he is entitled for the declaration as prayed. This order was taken exception to unsuccessfully before the Co-operative Appellate Court in Revision No. 04/2022, hence this Petition.
3. Learned Counsel for the Petitioner submits that the Respondent/original disputant has never sought any declaration in the dispute that he is the member of the opponent society and as such the

order of framing of additional issues is not tenable. It is his further submission that the dispute is at the fag end of its decision and therefore, at this stage it was not open for the Co-operative Court to frame the additional issues which was required leading of further evidence.

4. Learned Counsel for the Respondent supported the impugned order by drawing attention of the Court to the pleadings in the dispute and the written statement. It is his submission that once the dispute is raised with regard to the membership of disputant, the said issue goes to the root of the dispute as unless it is held that the disputant is the member of the co-operative society, the disputant under Section 91 of the The Maharashtra Co-Operative Societies Act could not be held to be tenable.

5. There cannot be any dispute with regard to the position of law that the issues can be framed by the Court at any stage of hearing provided that in appropriate case opportunity of hearing or leading evidence is granted to the parties. Herein this case, prima facie perusal of the pleadings indicate that disputant has raised specific plea of the member of co-operative society. In the written statement this fact has been denied by the petitioner/original Respondent. Once the dispute is made with regard to the membership of the original disputant, it strikes the maintainability of dispute under Section 91 of the Act. Therefore,

the issue is required to be framed by the Court. Only for the reason that the additional evidence would be required, there could be no justification for not framing the issue which is essential for the decision of the dispute. The Co-operative Court is fully justified in framing the said issue. The Co-operative Appellate Court has also rightly refused to cause interference in the impugned order in the revision.

6. Needless to say that it would be open for both sides to lead additional evidence, if necessary. Since the dispute is more than five years old case, the Co-operative Court to decide the same expeditiously and in any case within a year from today.

7. Petition stands dismissed.

(R. M. JOSHI, J.)

ssp