IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10766 OF 2019

Kaustubh Bal Joshi and Anr. ...Petitioners

V/s.

M/s. Sadbhav Co-operative Housing Society and Ors. ...Respondents

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Mr. Piyush Pande *(through VC) i/b. Ms. Neha Bhide for the Petitioners.*

CORAM: SANDEEP V. MARNE, J.

DATED: 24 DECEMBER 2025.

P.C.:

1) Petition challenges order dated 14 March 2019 passed by Ad-hoc District Judge-2, Pune, rejecting Application at Exhibit-38 in Civil Appeal No.976 of 2012 filed by the Petitioner No.1/Defendant No.1. By that Application, Petitioner No.1 /Defendant No.1 had sought setting aside of order passed on Application at Exhibit-22.

2) It was the grouse of the Petitioners that Application at Exhibit-22 was erroneously disposed of by making an order 'application is filed'. By Application at Exhibit-22, the Petitioner/Defendant No.1, had sought dismissal of the entire appeal on the ground of death of Defendant No.2. It appears that after the Petitioner No.1/ Defendant No.1 filed application at Exhibit-22, the Appellant-Society filed Application at Exhibit-23 for bringing on

record legal heirs of Defendant No.2. That application was allowed by the Appellate Court by order dated 16 January 2019 and legal heirs of Defendant No.2 were permitted to be brought on record. Application at Exhibit 22 filed by Petitioner No.1 obviously became infructuous and was rightly disposed of with a remark 'application is filed'.

3) The Petitioner No.1 mischievously filed Application at Exhibit 38 seeking setting aside of order passed on Application at Exhibit-22 and once again prayed that the entire appeal be dismissed on account of death of Defendant No.2. By filing such mischievous application, Petitioner wasted valuable judicial time of the District Court and accordingly adverse observations are made about the conduct of Petitioner No.1 in paragraphs 15 and 16 of the order dated 14 March 2019. Filing of the present Petition, to my mind appears to be a gross abuse of process of law. The whole Appeal could not be dismissed as it would have survived qua Defendant No.1. Even otherwise legal heirs of Defendant No.2 are brought on record. The Appellate Court has rightly rejected the application. Therefore, the Petition is **dismissed.**

[SANDEEP V. MARNE, J.]

Signed by: Megha S. Parab
Designation: PA To Honourable Judge
Date: 24/12/2025 20:41:10