

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5190 OF 2024

WITH

INTERIM APPLICATION NO. 15586 OF 2024

Mayank Sanghvi and anr.

....Petitioners

: Versus :

The State of Maharashtra & Ors.

....Respondents

WITH

WRIT PETITION NO. 5191 OF 2024

Dharmesh Doshi

....Petitioner

: Versus :

The State of Maharashtra & Ors.

....Respondents

WITH

WRIT PETITION NO. 5193 OF 2024

Mrs. Rashmi N. Shah & Anr.

....Petitioners

: Versus :

The State of Maharashtra & Ors.

....Respondents

WITH

WRIT PETITION NO. 5194 OF 2024

Anand Karsandas Bhansali

....Petitioner

: Versus :

The State of Maharashtra & Ors.

....Respondents

WITH

WRIT PETITION NO. 5196 OF 2024

Damyanti Shah & Anr.

*....Petitioners***: Versus :**

The State of Maharashtra & Ors.

*....Respondents***WITH****WRIT PETITION NO. 5195 OF 2024**

Mahesh Idnani and anr.

*....Petitioners***: Versus :**

The State of Maharashtra & Ors.

*....Respondents***WITH****WRIT PETITION NO. 5198 OF 2024**

Dhirajlal Devji Dedhia

*....Petitioner***: Versus :**

The State of Maharashtra & Ors.

....Respondents

Mr. Vishwanath S. Kapse with Mr. Upendra Mahadik i/by. Fast Track Legal, for the Petitioners.

Mr. P.V. Nelson Rajan, AGP for State-Respondent No.1.

Mr. Prasad Dani, Senior Advocate with Mr. Pramod Bhosle i/by. Ms. Devika Nigade, for Respondent Nos.2 to 7.

CORAM : SANDEEP V. MARNE, J.

Dated : 24 February 2025.

P.C. :

1) These petitions challenge judgment and order dated 24 August 2023 passed by the Co-operative Appellate Court dismissing the Appeals preferred by the Petitioners and confirming the orders dated 7 February 2023 passed by the Learned Judge, Co-operative Court refusing to grant interim relief in the dispute applications filed by the Petitioners.

2) I have heard Mr. Kapse, the learned counsel appearing for the Petitioners and Mr. Dani, the learned counsel appearing for Respondent Nos.2 to 7.

3) It appears that in the applications preferred by the Petitioners for grant of interim injunction, following prayers were made :

A. That pending the hearing and final disposal of the dispute this Hon'ble Court be pleased to direct the Opponents to disclose on affidavit the additional car parking already allotted in the open spaces/compound of the Societies and the sanctioned plan of the buildings.

B. That pending the hearing and final disposal of the dispute this Hon'ble Court be pleased to appoint a Court Commissioner to visit the Property in order to ascertain the car parking position and to submit the report in respect thereof.

C. That pending the hearing and final disposal of the Dispute this Hon'ble Court be pleased to direct the Opponents their servants, agents and/or representatives to temporarily allow the Disputants to park their car inside the Societies compound.

D. Ad-interim and interim reliefs in terms of prayer clauses [A] to [C] hereinabove may be granted.

E. For costs.

F. For such and further reliefs as the nature and circumstances of the case may require may be granted.

4) Mr. Kapse would submit that so far as prayer clause (A) of the interim injunction application is concerned, the same is already met with and that the Petitioners have already been provided with the necessary information. So far as prayer clause (B) of the Interim Application is concerned, he would submit that appointment of Court Commissioner is now no longer necessary. These petitions essentially survive in respect of prayer clause (C) of the interim injunction applications which sought directions to the Respondents for temporary allotment of car parking spaces inside the Society's compound. The applications for interim injunction were rejected by the learned Judge of the Co-operative Court by orders dated 7 February 2023 and by now, period of more than two years has passed. Petitioners are thus without allotment of car parking spaces for the last over two long years. Mr. Kapse would submit that based on the information received by the Petitioners through the disclosure made by the Respondent-Societies, the Petitioners desire to renew their prayers for grant of temporary injunction. I am afraid this cannot be permitted considering the fact that more than two years have elapsed from the date of rejection of earlier application for temporary injunction. Instead, Petitioners need to prosecute their disputes for final decision. If Petitioners believe that pleadings of the disputes are required to be amended in the light of the additional information received through disclosure, they would be at liberty to apply for application of amendment of the dispute applications. Mr. Dani, on instructions would fairly submit that if and when such applications for amendment of the dispute applications are preferred, the

contesting Respondents shall not oppose such amendments, so long as amendments stayed within the bounds of the additional information disclosed to the Petitioners. Considering the above positions, in my view, instead of either examining the correctness of the impugned orders passed by the Co-operative Court and Co-operative Appellate Court and instead of granting fresh opportunity to the Petitioners to file one more applications for temporary injunction, it would be appropriate that the dispute applications are taken up for hearing and disposal in an expeditious manner.

5) The petitions are accordingly disposed of by requesting the Co-operative Court to expedite the hearing of disputes filed by the Petitioners by granting an opportunity to them to amend the dispute applications. The dispute shall be decided on their own merits without being influenced in any manner by the observations made in the impugned orders or in the present order. The parties shall extend co-operation to the Co-operative Court for expeditious disposal of the disputes. All contentions of parties on merits are expressly kept open.

6) With the above directions, all the petitions are **disposed of**. With disposal of the petitions, Interim Applications taken out therein do not survive. The same also stand disposed of.

[SANDEEP V. MARNE, J.]