

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12025 OF 2024

Vijay Nagari Coop. HSG Ltd.
through its President and Secretary
Savar Pushpalal Jain and Anr.

...*Petitioners*

V/s.

State of Maharashtra and Ors.

...*Respondents*

Mr. Rahul Shivaji Kadam *for the Petitioners.*

Ms. A.A. Nadkarni, *AGP for Respondent Nos.1 and 2-State.*

Mr. Vaibhav Ugle *i/b. Mr. Vikas Somawanshi for Respondent
Nos.5 & 6*

CORAM : SANDEEP V. MARNE, J.

Dated : 27 January 2025.

P.C. :

1) Mr. Kadam, the learned counsel appearing for the Petitioners invites my attention to order dated 1 August 2024 passed by this Court setting aside order dated 21 January 2022 passed by the Divisional Joint Registrar, (CIDCO) and order dated 9 February 2024 of the learned Minister (Co-operation). He would submit that the present Petition got inadvertently left out while passing order dated 1 August 2024, which would otherwise cover the dispute raised in the present Petition as well.

2) Mr. Ugile, the learned counsel appearing for Respondent Nos.5 and 6 would submit that Petitions are filed seeking review of order dated 1 August 2024. He would submit that Petitioner-Society is not accepting claim of membership of the concerned persons on the strength of share certificates issued in their name by branding the said share certificates as forged documents. He would therefore submit that even if society's contention is accepted as correct and if society is permitted not to take cognizance of those share certificates, the claim of the flat purchasers for membership is required to be independently adjudicated under the provisions of Section 22(2) of the Maharashtra Co-operative Societies Act, 1960 and that the same has indeed been adjudicated by the Divisional Joint Registrar, CIDCO and the learned Minister (Co-operation). He would submit that the Petitioner-Society has taken an assertive position that the flat purchasers cannot be admitted as members and pleaded detailed reasons, both before the Divisional Joint Registrar as well as before the learned Minister for not admitting them as members. He would therefore submit that there was a *lis* between flat purchasers and the society on the issue of entitlement and eligibility of flat purchasers for being admitted as members. He would submit that order passed by this Court on 1 August 2024 renders flat purchasers remediless in respect of their grievance *qua* admission as members. He submits that the society does not recognise the share certificates and that therefore independent adjudication of dispute about membership

was necessary and that such adjudication has indeed been made by Divisional Joint Registrar and learned Minister in the light of specific *lis* created before them by the Society.

3) Mr. Kadam, on the other hand would submit that flat purchasers are at liberty to file applications for membership, which would be decided by the Society. To this, Mr. Ugile would react by submitting that Society had already pleaded detailed reasons for not accepting the flat purchasers as its members and therefore making of applications and their obvious rejection would nothing but an empty formality. He would therefore, submit that since *lis* between the parties with regard to entitlement of the flat purchasers being decided by the Divisional Joint Registrar and the learned Minister, this Court ought to have decided correctness of those orders rather than setting them aside for technical reason of failure to file application for membership, non-decision thereof and presence of pleading in the application about issuance of share certificate. Mr. Ugile would therefore submit that since the review of the order dated 1 August 2024 is applied for, hearing of the present Petition be deferred.

4) List the Petition on **17 March 2025**.

[SANDEEP V. MARNE, J.]