

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

WRIT PETITION NO. 19155 OF 2024

Deepa P Tendulkar

... Petitioner

Versus

The State of Maharashtra Throu.
The Principal Sec. Co-Op
and Marketing and Ors

... Respondents

Mr. Vinay V. Nair *for the Petitioner.*

Mr. Hamid Mulla, *AGP for Respondent / State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 3 FEBRUARY 2025.

P.C. :

1) The Petition challenges order dated 18 October 2024 passed by the Deputy Registrar, Co-operative Societies, Belapur, Navi Mumbai (CIDCO) not entertaining the complaint sought to be filed by the Petitioner seeking action against the Members of the Managing Committee under provisions of Section 78A of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**).

2) I have heard Mr. Nair, the learned counsel appearing for the Petitioner and have considered the submissions canvassed by him.

3) Perusal of the complaint dated 19 January 2024 addressed to the Joint Registrar of Co-operative Societies on behalf of the Petitioner through an advocate would indicate that the major grievance expressed therein was about the re-development process implemented by the Society. There is no dispute to the position that the resolution has been adopted in the Special General Body Meeting held on 6 August 2023 to implement the proposed re-development process and the Petitioner participated in that meeting. It appears that the Petitioner voted against implementation of the re-development process and the resolution was adopted by majority. If Petitioner has any grievance with regard to the resolution dated 6 August 2023, her remedy is to file a dispute under provisions of Section 91 of the Act. So far as the other allegations in the complaint are concerned the same are with regard to the manner in which the re-development process is sought to be implemented by the managing committee. A very serious allegation is leveled in paragraph 9(d) of the complaint that the Managing Committee has held discussions for collecting an amount of Rs.4.8 Crore to be paid to NMMC/CIDCO in cash under the heading "Unofficial charges". Upon being queried as to whether the decision is implemented by the society by calling upon the members to contribute any amount, the learned counsel appearing for the Petitioner would answer in the negative. Thus, it is an admitted position that no decision is taken by the society for collection of any amount from the members to be paid in cash to either NMMC or CIDCO. The allegation is thus totally baseless.

4) The learned counsel appearing for the Petitioner would then submit that the society does not maintain minutes of meetings held from time to time. When the attention of the learned counsel

was invited to finding recorded by the Deputy Registrar in paragraph 2 of his order that the society produced before him the minutes of various General Body meetings and that the Deputy Registrar had personally gone through the said minutes, the learned counsel initially submitted the no such minutes were produced before the Deputy Registrar. Upon being asked to point out the exact pleading in the Petition about minutes of General Body not being produced before the Deputy Registrar by the Society, he was unable to do so. During the course of dictation of the order the learned counsel clarified the position that he was referring to the Minutes of the Managing Committee Meeting and not the Minutes of General Body Meeting. He would submit that the Petitioner has taken a position that none of the Minutes of the Managing Committee are maintained. However, perusal of the complaint dated 19 January 2024 would once again indicate that this point is not raised in the complaint.

5) After considering the entire conspectus of the case, I am of the view that the allegations raised by the Petitioner are essentially with regard to re-development of the building. The Deputy Registrar has rightly held that since the decision for re-development is backed by majority decision taken in General Body, the Deputy Registrar will not be in position to exercise its jurisdiction under Section 78A of the Act relating to the re-development process. The complaint otherwise is very vague and lacks material particulars. Petitioner appears to be a person who is not supporting the re-development process and the complaint before the Deputy Registrar under Section 78A of the Act as well as the present Petition appears to have been filed in order to circumvent the difficulty faced by the Petitioner in questioning the wisdom of

the majority members to adopt the re-development process. I am therefore, not inclined to entertain the present Petition. Writ Petition is accordingly **rejected**.

[SANDEEP V. MARNE, J.]