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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 245 OF 2025
WITH
INTERIM APPLICATION NO. 7408 OF 2025**

Mridula Chakraborty ... Appellant/Applicant

vs.

Sai Apartments Co-operative Housing ... Respondents
Society Limited through its
Chairman/Secretary and Ors

Mr. Anil Anturkar a/w. Mr. Vivek Shukla i/b. Trupti Gaikar for
Appellant.

Mr. Kedar Pathare for Respondent No.2 (through VC).

Ms. Astha Tahmankar, Mr. Sameer J. Chitnis and Ms. Madhura D.
Kulkarni i/b. M/s. Chitnis and Co. for Respondent No.1.

Mr. C.S. Lamba a/w. Md. Shamshel Ali for Respondent No.2.

CORAM : GAURI GODSE, J.

DATED : 21st APRIL 2025

ORDER:

1. This appeal is preferred by the plaintiff to challenge the rejection of the notice of motion seeking interim relief restraining the society from proceeding with the tender document approved in the general body meeting of the society. The plaintiff is one of the members of the society, claiming to have taken objection to the

decision of the society to approve the tender document.

2. Learned senior counsel appearing for the appellant submits that the plaintiff had placed on record Coastal Regulation Zone ('CRZ') remarks issued by the corporation on 7th July 2023, which states that the land belonging to the society is affected by the coastal regulation zone as per the CZMP map approved on 19th January 2000. The CRZ remark dated 7th July 2023 is part of the appeal compilation. He submits that the society has placed on record the CRZ remarks issued by the corporation, which records that the society's land does not fall in the CRZ. He points out that the CRZ remark dated 12th February 2025, placed on record by the society, also records that the remarks are offered only from the CRZ point of view without reference to ownership and without verification of the status of the structure, if any, on the land under reference. He submits that the remark further states that it is necessary to obtain CRZ clearance/ NOC from MCZMA/NCZMA before approval of plans for development on the land from the Planning Authority.

3. With reference to the two different CRZ remarks, learned senior counsel for the appellant refers to the observation made in the impugned order. He submits that the learned Judge has only referred to the CRZ remark issued on 12th February 2025. However,

has ignored the earlier CRZ remarks. He submits that the appellant is concerned with the procedure required to be followed if the land or part of the society's land falls under CRZ.

4. Learned senior counsel for the appellant further points out the observation made by the learned Judge in paragraph 17 of the impugned judgment. He submits that the tender notice issued on behalf of the society refers to the area as per the physical survey and the area under the proposed development. He submits that there is a discrepancy in the area of the society's land stated in the tender notice, to which the plaintiff had already objected by filing her objections before the meeting was conducted. He, however, submits that the society is not ready to verify the area; thus, if it is ultimately found that the society's land is larger than the area mentioned in the tender notice, the contractor or developer may refuse to redevelop the society. He thus submits that the society would suffer a huge loss in view of the discrepancy in the tender notice. He further submits that the plaintiff does not object to the redevelopment of the society. However, she is concerned about the discrepancy in the area of society and the defects in the tender process that are likely to cause loss to society. He thus submits that the plaintiff would be entitled to the order of injunction restraining the society from carrying out redevelopment work and issuing any tender notice

without referring to the necessary compliance with reference to the objections raised by the plaintiff.

5. Learned counsel for the society submits that the objections filed by the plaintiff were considered, and the general body of the society approved the tender notice. She submits that all the copies of the resolutions are placed on record in the suit. She further submits that the plaintiff has never challenged any of the resolutions passed by the general body of the society. She submits that the plaintiff has unnecessarily raised an objection and stalled the redevelopment process, which is adversely affecting the rights of the members of society. She further submits that the society has already appointed a Project Management Consultant. She submits that in the event there are any discrepancies or any procedural aspects to be followed for the approval, the same will definitely be taken care of by the consultant and the architect. She thus submits that without challenging the resolution passed by the general body, the plaintiff would not be entitled to seek any interim injunction in the present suit filed, challenging the tender process.

6. I have perused the papers of the appeal. The plaintiff has filed the suit seeking a declaration with regard to the tender document published on behalf of the society. The suit further claims an order

of injunction restraining the society from implementing the redevelopment scheme. A perusal of the plaint indicates that the plaintiff has raised no objections with regard to the approvals given by the general body for the tender document. The technical objections raised on behalf of the plaintiff are concerning the process of obtaining approvals for redevelopment with reference to the CRZ regulation. The objections raised with regard to the area of the society mentioned in the tender document are considered by the society in the general body meeting and approved the terms and conditions of the tender notice and the document. The plaintiff as a member of the society, is always entitled to participate in the general body proceedings with regard to her grievance. In the event, she is aggrieved by any of the decisions taken by the general body, it is always open for the plaintiff to adopt appropriate remedy before the co-operative court. However, admittedly, the appellant has never raised any objections before the cooperative court challenging the decision of the general body. Therefore, I see no reason to entertain all these objections in this appeal when the plaintiff has never objected to the decision taken by the general body.

7. All the prayers in the suit and in the interim application are with reference to the process of redevelopment undertaken by the society after consulting the project management consultant and the

architect. The remarks with regard to the CRZ regulations are in response to the applications made before the corporation, which also states that the approvals are required to be taken as per the MCZMA Regulation. Thus, the issue with regard to the CRZ regulation cannot be made a subject matter of the present suit or appeal when the plaintiff has never raised any objections to the decisions taken by the general body of the society.

8. A perusal of the reasons recorded by the learned Judge indicates that all the necessary pleading and documents are considered with reference to the objections raised by the plaintiff. The Learned Judge has referred to the recent remarks issued by the corporation regarding the status of the society's land with reference to the CRZ. The letters issued by the corporation regarding the CRZ remark are thus referred to by the learned Judge to consider the objections raised by the plaintiff. After perusing the documents placed on record by the corporation, the learned Judge has arrived at the conclusion that the society has already taken care with regard to all the contentions raised by the plaintiff while issuing the tender for the redevelopment of the property. Hence, the learned judge has refused to grant discretionary relief of an injunction.

9. I do not find any illegality or perversity in the reasons

recorded in the impugned order. Any attempt made by the appellant to raise such objections without challenging the decisions taken by the general body of the society would unnecessarily delay the redevelopment undertaken by the society. The approvals granted by the general body of the society are binding on the members. The general body of the society is the supreme authority to make decisions with regard to the society's property.

10. Hence, I do not see any reason to interfere with the impugned order. The appeal is devoid of any merit. Hence, the appeal is dismissed. In view of the dismissal of the appeal, the pending interim application is disposed of as infructuous.

(GAURI GODSE, J.)