

IN THE HIGH COURT OF BOMBAY AT GOA
LD-VC-CW NO. 75 OF 2020

1. Mr. Vishwas Jotkar
Major in age, Indian National,
Resident of Mulas, Paroda
Quepem-Goa.
2. Mr. Anant Vernekar,
Major in age, Indian National,
Resident of Avedem,
Quepem Goa.
3. Shri Narayan M. Pisurlekar,
Indian National, residing at House No.28,
Near Shree Damodar College,
Pedda, Margao, Goa.
4. Mrs. Shobha Kankonkar alias Paingainkar,
major in age, Indian National,
Resident of 2nd floor, Radha Apartment,
Ambaji, Fatorda, Margao. Petitioners

V e r s u s

1. The State of Goa,
Through The Chief Secretary,
Secretariat, Porvorim,
Bardez, Goa.
2. The Registrar,
Office of Registrar of Co-operative Societies,
Sahakar Sankul, Patto,
Panaji, Goa.
3. The Asst. Registrar,
Office of the Asst Registrar of Co-operative Society,
Gomant Vidya Niketan Bldg.,
Margao, Goa.

4. Administrator of Vidyavikas
Cooperative Housing Society,
Office of the Asst. Registrar
of Cooperative Societies,
Bicholim Zone, AAI Building,
Karapur Tisk, Sanquelim, Goa.
5. Vidya Vikas Co-op Housing Society Ltd.,
Represented through the Administrator,
Mr. Pankaj Marathe,
Navelim, Salcete, Goa.
6. Mr. Shirish Kamat,
Having office at C-6,
Vishal Apartment,
Behind Vishant Theatre,
Aquem, Margao, Goa. Respondents

1. **Shri Rajendra Siddarkar,**
60 years, s/o Late Shri Shivram Siddarkar,
married, retired, Vikasnagar Pari Bhat,
Karmali, Tiswadi-Goa.
2. **Mr. Premanand Dudsagar**
56 years, s/o Late Shri Shivram Siddarkar,
married, service,
r/o BS 5, second floor, Vinayaka bldg.,
Upper Bazar, Ponda, Goa.
3. **Ms. Lata Jotkar,**
62 years, w/o Shri Deepak Suresh Banastarkar,
married, retired, Vikasnagar Pari Bhat
Karmali, Tiswadi-Goa. Intervenors

Mr. Parag Rao and Mr. Vithal Naik, Advocates for the Petitioners.
Mr. D. Pangam, Advocate General with Mr. M. Salkar, Government
Advocate for the Respondent nos.1 to 3.
Mr. Nigel Da Costa Frais, Advocate for the Respondent nos.5 and 6.
Ms. Asha Desai, Advocate for the Intervenors.

Coram :- M. S. SONAK &
M. S. JAWALKAR, JJ.

Date : 4th August, 2020

ORAL JUDGMENT (*Per M. S. Sonak, J.*)

1. Heard the learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith with the request and the consent of the learned Counsel for the parties. Learned Counsel for the respondents, waive service.
3. After this matter was argued for sometime, the learned Counsel for the parties agree that this petition can be disposed off by making the following orders and arrangements pending the disposal of applications for interim reliefs taken out by respondent no. 6 and the intervenors by the Co-operative Tribunal where such matters are pending.
4. (A) The impugned orders dated 09.03.2020 read with the Corrigendum dated 16.03.2020 and 25.06.2020, shall stand set aside and the charge of the Society shall be given to the Board of Directors who were declared elected unopposed in the election which concluded on ~~31.12.2019~~ ^{30.12.2019}. We add here, that the main reason for we agreeing to such a direction is because there does not appear to have been any compliance of principles of natural justice before these orders were made.

(B) The temporary arrangements shall be as follows :

(a) *Though, the charge will have to be handed over to the elected Board of Directors forthwith, the elected Board of Directors will be restrained from taking any major policy or financial decisions until the disposal of the applications for interim relief by the Co-operative Tribunal. In particular, it is made clear that the Board of Directors will not make allotment of any flats during this period.*

(b) *The Co-operative Tribunal is directed to dispose off the applications for interim reliefs in the election petitions instituted by the respondent no.6 and the intervenors as expeditiously as possible and, in any case, within a period of two weeks from the date this order is placed before it.*

(c) *There are proceedings pending before the respondent no.2, for which there is already a direction from the learned Single Judge for disposal in a time bound manner. The respondent no.2 to abide by such directions and act accordingly.*

5. At the request of the learned Counsel for the parties, this Court has not gone into the rival contentions and, therefore, all the contentions of all

the parties are expressly left open for determination by the Co-operative Tribunal and respondent no.2.

6. We further clarify that when we refer to the respondent no.2 and make these directions, all objections of the petitioners in relation to the jurisdiction of the respondent no.2 or other objections which they have to his taking up such proceedings are also left intact.

7. At the request of the learned Counsel for the parties, we accept the aforesaid arrangements. We direct that directions at paragraph 4(a) to 4(c) will operate until disposal of the interim applications by the Co-operative Tribunal as aforesaid.

8. We refrain from setting out our own reasons for setting up temporary arrangements as otherwise it may prejudice the interest of the parties or unnecessarily influence the proceedings before the Co-operative Tribunal and the respondent no.2 in this matter. We, therefore, make it clear that all contentions of all parties are expressly kept open to be decided by the said authorities.

9. The respondent nos.2 and 4 to ensure that the charge is handed over to the elected body latest by the end of this week. We make it clear that if there is any delay in handing over the charge for reasons attributable to the respondent nos.2 and 4, then, apart from other consequences, we will consider whether the time limit set out before the Co-operative Tribunal is to be extended further.

10. We clarify that the order dated 09.03.2020 is set aside only to the extent it appoints an Administrator. The rest part of this order was neither challenged before this Court nor is set aside.

11. Mr. Rao, the learned Counsel for the petitioners, however clarifies that insofar as the rest part of the order is concerned, challenges will be raised elsewhere i.e. before the Registrar's nominee. The petitioners are at liberty to do so.

12. In view of this order, the Co-operative Tribunal is requested to prepone the dates fixed by it. In fact, this is a joint request made by the

learned Counsel for the parties which we find to be absolutely reasonable in the circumstances.

13. Accordingly, the parties to appear before the Co-operative Tribunal on 06.08.2020 and file an authenticated copy of this order. We are sure that the Co-operative Tribunal will make every endeavour to dispose off the interim applications within a period of two weeks starting from 06.08.2020. Further, the learned Counsel for the parties have assured this Court that they will render full co-operation for the disposal of the interim applications and not seek any undue adjournments. They have also stated that if, for any reason, they cannot attend the proceedings, they will on the next date file in their written submissions which should be taken as sufficient compliance of principles of natural justice before the Co-operative Tribunal. They add that all this will be restricted to the disposal of the interim applications and not further.

14. This petition is accordingly disposed off in the aforesaid terms.

15. All concerned to act on the basis of an authenticated copy of this order.

M. S. JAWALKAR

M. S. SONAK, J.

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