

ITEM NO.3 Court 4 (Video Conferencing) SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).1122/2020

(Arising out of impugned final judgment and order dated 26-07-2019 in WP No. 1480/2010 passed by the High Court of Judicature at Bombay)

PUNAM CO OPERATIVE HOUSING SOCIETY LTD. Petitioner(s)

VERSUS

ALOK AGARWAL & ORS. Respondent(s)

(WITH IA No. 197121/2019 - EXEMPTION FROM FILING O.T., IA No. 130419/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 12-11-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Tapesh Kumar Singh, AOR
Mr. Aditya Pratap Singh, Adv.
Mrs. L. Bhaswati Singh, Adv.
Mr. Aditya Narayan Das, Adv.
Mr. Deepak Chitnis, Adv.

For Respondent(s) Mr. Vanshdeep Dalmia, AOR
Ms. Shivali Chaudhary, Adv.

Mr. Rahul Chitnis, Adv.
Mr. Sachin Patil, AOR
Mr. Aaditya A. Pande, Adv.
Mr. Geo Joseph, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1 By the impugned order dated 26 July 2019 of a Single Judge, the petition filed by the Punam Cooperative Housing Society Limited¹, the petitioner in these proceedings under Article 136 of the Constitution, has been dismissed. In the

1 "Cooperative Society"

writ proceedings, WP 1480 of 2010, the petitioner sought to challenge an order passed by the Divisional Joint Registrar, Cooperative Societies on 31 March 2019 dismissing a revision application under Section 154 of the Maharashtra Cooperative Societies Act 1960² against an order dated 10 October 2008 of the Deputy Registrar granting membership of the Cooperative Society to the first and second respondents. The direction to grant membership was in pursuance of the provisions of Section 23(2) of the Act.

2 There is a dispute between the Cooperative Society and the respondents in respect of a space/garage which is alleged to be an encroachment by the respondents. In respect of this dispute, two proceedings are pending:

- (i) A suit, being Suit No 1894 of 2010, instituted on the original side of the High Court of Judicature at Bombay by the Cooperative Society; and
- (ii) A proceeding being CC II 572 of 2008, a cooperative dispute, which has been transferred to the High Court in pursuance of an order passed by this Court on 10 May 2016 in SLP(C) No 35195 of 2012.

3 The operative order which was passed in the above Special Leave Petition reads as follows:

- “1. CC II/572 of 2008 stands transferred to the High Court of Bombay and the said petition shall be clubbed and consolidated along with Suit No.1894 of 2010 by the High Court.
- 2. We also request the High Court to make an endeavor to dispose of these proceedings expeditiously.
- 3. In the meantime, the parties shall maintain status quo.
- 4. However, it is made clear that if for the purpose of maintenance of sewerage line and water pipes access is needed by the Society, the same shall be given by the

petitioners.”

- 4 By the previous order of this Court dated 27 September 2021, the High Court was requested to club and consolidate the suit and the cooperative dispute and to expeditiously dispose of both. This has been reiterated in the order of this Court dated 8 October 2021 by which the High Court has been requested to dispose of both the proceedings by 31 December 2021 “without fail”. Consequently, the hearing has already been initiated before the High Court and the recording of evidence is presently under process.
- 5 The impugned order of the Single Judge directing the Cooperative Society to admit the respondents as members of the Cooperative Society is unexceptionable having regard to the provisions contained in Section 23 of the Act. The dispute which is pending before the High Court between the Cooperative Society and the respondents, as noted above, would proceed independently of the direction to admit the respondents as members of the Cooperative Society and, ultimately, the parties will be governed by the final order that may be passed in the clubbed proceedings, as noted above, in respect of the alleged encroachment and other issues which arise in those proceedings.
- 6 Subject to the above clarification, it is not necessary for this Court to entertain the Special Leave Petition under Article 136 of the Constitution, there being no error on the part of the Single Judge, either on fact or law, warranting interference.
- 7 In pursuance of the order of this Court dated 8 October 2021, we request the High Court to ensure that the time schedule for the disposal of the proceedings is duly observed.
- 8 The Special Leave Petition shall stand disposed of in the above terms.

9 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER