

**Order below Application of Disputant dtd. 27.06.2023**  
**in CC/ I/84/2013.**

**(M/s. Barodawala Properties Pvt. Ltd. Vs. New Pushtikar CHS Ltd.)**

1. This is an application for seeking direction to the opponent society to provide copies of documents to the disputant and produce original documents from the custody of opponent society during cross-examination.

2. Disputant submits that, the opponent society filed its evidence on 22/02/2022 with list of documents. The disputant gave admission/ denial on 20/09/2022. Thereafter, the matter has posted for cross-examination of the witness. The order passed on exhibiting of documents is on record. After looking at the evidence filed by the opponent society, of its witness, the notice was given on 14/03/2023 to the opponent society through their advocate which is self explanatory. This application is made mainly to bring all above facts on record of this court. Also, the disputant being member and litigant in this matter, to adjudicate this matter as per law, has right to call for documents referred and relied upon by the opponents society in its evidence. The relevant provisions of CPC 1908 as well as evidence Act will be relied upon to substantiate its stand of seeking documents during cross-examination of the witness. All documents produced, referred, shown during cross-examination to the witness of the opponent society can be taken into consideration as per Evidence Act. Hence, the disputant prayed that documents required during cross-examination as stated in notice dated 14/03/2023 be directed to be provided and original be kept for verification.

3. By filing reply opponent denied the application and submitted that, the disputant has not revealed whether the documents listed in the letter dated 14/03/2023 is annexed to the dispute application and / or relied upon in the dispute application. The

opponent society has furnished all the documents annexed and relied upon in the Affidavit of Examination in Chief filed on behalf of the opponent society to the disputant way back on 22/08/2022 and the opponent society is abided to produce originals of it before this court as and when necessary and required. The opponent society is neither required any kind of request letter or nor directions of this court to produce the originals of the documents relied by the opponent society in its affidavit of evidence filed before this court. The documents listed in the said letter dated 14/03/2023 can be sought by the disputant availing the provisions of MCS Act and disputant being the member of the society is eligible to get those documents by following due process under MCS Act. Opponent society is ready to produce the originals at demand of disputant. This frivolous application is filed only to linger the dispute hence, prayed to dismiss the application.

4. Perused the application. Heard both advocates at length. Ld. Advocate of the disputant relied on the application and submitted the contents in the application. Disputant further argued that readiness is shown by the opponent to produce the original documents as per say and as per reply notice too. Hence, considering the admission prayed to allow this application.

5. Ld. Adv. For the opponent submitted that as per previous application it is directed to the disputant to follow the procedure as per section 32 of the MCS Act. By following the rules the disputant can collect the necessary documents. And after following proper procedure the opponents are ready to furnish the original available documents to the disputant. Hence, prayed to reject the application.

6. As rightly pointed by the opponent disputant had not mentioned the provisions under which this application is filed. So without considering the provisions it is difficult to analyze the application and reliefs thereunder.

7. For the sake of argument if the application is considered as it is, while deciding this application, I have to refer the application made by the disputant under order 11 rule 14 of the CPC for production of documents dtd. 23.03.2017. In this application also more or less the disputant demanded the same documents from the opponent. On this application my Ld. Predecessor passed following order:-

“Perused the application and reply. Heard. The disputant being member of society has a access to inspect and obtain the copies thereof by following process of law viz. Section 32 of MCS Act, 1960 and the bye-laws of society.

Even society by its reply showed readiness to supply copies as required. In the circumstances, need not to exercise Order XI, Rule 14 of CPC. Application is rejected.”

8. So considering the application appropriate order is already passed by my Ld. Predecessor. Hence, before making this application it was the duty of the disputant to comply with the directions. But disputant had not complied with the directions. Instead of complying with the directions disputant filed the application with the same reliefs. As rightly ordered by my Ld. Predecessor, disputant being member of the society can get the access of the society documents by following the procedure as mentioned in the section 32 of the MCS Act. As the disputant failed to comply with the directions hence, for above mentioned reasons the

application is liable to be rejected. Hence, considering the above reasons I proceed to pass following order:-

**ORDER**

Application is rejected

**Sd/-**

**Date : 22/07/2024**

**( Smt. S. V. Metil-Patil )  
Judge,  
Co-operative Court No.1,  
Mumbai.**