

Order Below Exh.19 in CC/I/125/2023
(Anil Harihar Jani Vs. Aum Kiran CHS Ltd.)

1) This application filed by opponent for the compliance of order passed below Exh.15 dated 15/03/2024. The opponent submitted that in view of compliance of order below Exh.15, copy of resolution and affidavit is filed and for the purpose of compliance with order she filed present application.

2) Disputant filed a say that, as per order below Exh.12 dated 02/08/2023, the Hon'ble Court was pleased to grant opportunity to the opponent to file either fresh written statement or to file the proper written statement which affidavit in support as per Order 8 Rule 1 of CPC. Later on, the next date the opponent did not comply with the said order and request the court to accept the previous written statement filed with the delay application without resolution and affidavit in support. Therefore, the WS taken on record at Exh.14. The disputant made an application for striking of defense below Exh.15 due to non-compliance of order and not having the authority to file the written statement. The court on 15/03/2024 was pleased to grant one more opportunity to the opponent to place before the court 1) The resolution showing that Mr. Jignesh Shah is authorised by the society to appear in the said matter, 2) the resolution showing the Adv. Prashant Deshmukh is appointed by the society to appear and plead on behalf of the society and 3) The affidavit in support of WS to be filed on or before next date. However, the opponent did not comply with the said order immediately on next date i.e. on 22/04/2024 and the advocate for opponent remained absent

on that day as well as the opponent was not present on 29/06/2024 as well the compliance was not made. The compliance is carried out on 3rd date after ample of opportunity is granted. Further the compliance application is also not properly filed. Therefore, heavy cost must be levied on opponent and the defense must be strike off.

3) Perused the application, heard both side at length. As the compliance of order below Exh.15 is in question, hence, it is necessary to consider the order passed below Exh.15 by my Ld. Predecessor dated 15/03/2024. As per the order opponent society was directed, 'Opponent/society to bring on record a copy of resolution showing approval of appointment of leaned Advocate Prashant Deshmukh and Associates to act, appear and plead on its behalf. Also, opponent/society to file a copy of resolution /authority letter showing that it had given authority to Mr. Jignesh Shah to represent the society. Opponent /society to file affidavit in support of written statement vide Exh.14 as per Order VI Rule 15(4) of the Code of Civil Procedure.'

4) In view of compliance the opponent society filed a copy of resolution dated 16/04/2023 by which authority to appear Mr. Jignesh Shah and appointment of Ld. Advocate Prashant Deshmukh and Associates was given. It was further directed to file affidavit in support of WS vide Exh.14. While complying with that order the opponent also filed copy of affidavit on record. So considering both the documents, it appears that opponent had duly complied with directions given in the order below Exh.15. As per my opinion, as the directions were complied hence, there is no

question in respect of non-compliance with the order below Exh.15 and no question arose as raised by the disputant in respect of non-compliance of order below Exh.15. Though, this is an application however, the opponent is only intimating the fact of compliance and not seeking any kind of permission in view of order passed below Exh.15. Further, in view of compliance the opponent had produced both the documents on record, hence, no question of permission will arise. Therefore, to remove all kind of ambiguity by this order, both parties to take a note that compliance of order below Exh.15 is done by the opponent. Hence, this order

Sd/-

Date : 24/09/ 2024

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