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CNR NO. MHCO010004982023

Dispute No. 413/2023
M/s. Mumaa Construction Pvt.
Ltd.

Vs
Hubtown Viva Premises Co-op.
Society Ltd. & another

ORDER BELOW EXH.25

1) Present application is filed for transfer of present dispute to Hon'ble Co-operative Court No.1, Mumbai

2) Case of opponent No.1 in brief is as under:

Opponent is a society and the present dispute is filed against builder and society. Likewise, in dispute Nos.409/2023, 414/2023 and 438/2023 the owners of respective shops have filed said disputes against the society i.e. opponent No.1. Reliefs sought in all the aforementioned disputes are same. In the present matter, both the parties have filed their written arguments. Thereafter, on the next date, opponent got to know that dispute Nos.409/2023, 414/2023 and 438/2023 have been transferred to Co-operative Court No.1, Mumbai.

3) As mentioned above, issues involved in all the four disputes are similar in nature. Therefore, to decide the present dispute, if all the disputes are transferred in either of the court, then same would curtail the possibility of having conflicting views of two different courts, on the same issue. No harm would cause to disputant, if present application is allowed. Therefore, as the other matters have

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been transferred to Co-operative Court No.1, Mumbai. Therefore, to facilitate the parties to curtail their number of visits, present dispute be transferred to Co-operative Court No.1, Mumbai.

4) Case of disputant in brief is as follows:

Disputant denied the contentions of present application by filing its reply vide exh.26. Opponent did not give any notice of intention while taking the present matter on board, to the disputant. The present dispute is filed before this court having proper jurisdiction. It is a prerogative of disputant to file its case and not a matter of choice of convenience by the opponent No.1. Therefore, present application be dismissed with heavy cost, as it is only a delay tactics on the part of opponent.

5) Heard the arguments of both the sides. Before, proceeding further, it is to be noted that this court does not have power, either to recall or transfer the matter from or to another court. As per section 93 of the Maharashtra Co-operative Societies Act, 1960, said power vests with the Hon'ble President of the Maharashtra State Co-operative Appellate Court. Therefore, in the present order only opinion of this court is being recorded.

6) Admittedly, dispute Nos.409/2023, 414/2023 and 438/2023 along with present dispute were filed before this court. By order dated 14/06/2024 of the Hon'ble President of the Maharashtra State Co-operative Appellate Court, dispute Nos.409/2023, 414/2023 and

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438/2023 have been transferred to the Hon'ble Co-operative Court No.1, Mumbai, for decision according to law.

7) The aforementioned four matters are connected matters. The applications filed in aforementioned matters were almost similar in nature. Therefore, on many occasions both the parties submitted that argument advanced in one of such application be treated as argument advanced in other three matters, having similar application. Therefore, in my opinion, to avoid complexity, if the present matter is clubbed with other three matters, it would certainly save time of both the parties to proceed with all the aforementioned disputes. Also, it would be easier for Court to decide all four matters at the same time, according to law. Therefore, in this backdrop, it is necessary to seek further directions with regards to transfer of present matter. Resultantly, I proceed to pass the following order.

ORDER

1. Application is allowed.
2. Issue request letter to the Hon'ble President of the Maharashtra State Co-operative Appellate Court, seeking further directions with regards to transfer of present dispute.

Place: Mumbai
Date: 02/08/2024

Sd/-
(Prachi N. Gosavi)
Judge, Co-operative Court No.4,
Mumbai