

In the Court of Judge, Co-operative Court Thane at Thane
(Presided over by Smt. S. K. Tonpe, Judge)

Dispute No. CCT 167/2019

CNR No. MHCO04-000180-2019

Shri. Anilkumar Joshi

Disputant

V/S

The secretary/chairman
Temple View CHS Ltd. and another

Opponents

Order
(Below application Exh. 20)

1. The present application is filed by the disputant for taking action against embezzlement. The disputant requested to pass the order to take the action against past and present managing committee for the embezzlement of the society fund. The past committee embezzlement cash fund and present managing committee has embezzlement through expense. In the balance sheet of the year 2022-23 Rs. 64,091/- saw debited in the income and expenditure under title of water line connection exp. as no such expenditure has been incurred during the year. Vasai Virar Municipal Corporation not allotted any new connection to our society. The auditor not reporting cash embezzlement in her report and expenses and vouchers have not been properly verified by the auditor and these wrong entries have been ignored by the auditor which raises suspicion against the auditor and have complained to the Deputy Registrar Vasai and ask to the committee through a letter but yet not taken any action against committee or not getting reply from society committee. The disputant have filed complaint letter to Deputy Registrar dated

14/03/2023, dated 11/09/2023 and dated 14/10/2023, Reply of the Deputy Registrar dated 04/10/2023, Income and expenditure account copy for the year 2022-23, copy of the audit report for the year 2021 to 2023, SGM agenda copy dated 02/07/2023. Hence prayed to take action against embezzlement.

2. The opponent filed pursis at Exh. 24 and adopted the say at Exh. 23 as their say to the present application. The opponent submitted that the contents of the present application are totally false, frivolous and vexatious, hence present application is required to be dismissed with cost. The present dispute is filed on 18/12/2019. The opponent appeared in the present dispute and filed detail written statement on 16/03/2020 as per Exh.8. The opponent has filed pursis as per Exh. 10 on 16/03/2020. the opponent failed to proceed with the Exh.5 and filed Exh.16 on 09/03/2023. The opponent has filed pursis as per Exh. 19 and adopted contents of written statement as reply to Exh.16.

3. The opponent further submitted that the disputant has filed Exh. 20, application for take action against embezzlement, application at Exh. 21 for stay order against repairing and also filed application for take action to cancel election. The contents of all applications are totally false. Disputant has filed present applications only to create confusion of this Court. Hence same are required to be rejected. The opponent society has maintained books of accounts properly and diligently as per provisions of approved bye-laws of society. There is no embezzlement in the account of society, hence present application is not maintainable. Further the application at

Exh. 21 is also not maintainable. Matter regarding election cannot be invoked in the present dispute. Hence all applications are required to be rejected.

4. After hearing both the parties and perusing the documents on record following points arise for my consideration.

Sr. No.	Points	Findings
1	Whether the application is entitled to be allowed ?	In the negative
2	What order ?	As per final order

REASONS

AS TO POINT NO. 1 AND 2

5. Perused application, proceeding, say on record and after hearing of the parties it appears that the disputant has filed present dispute for order and direction to opponent no. 1 to enquire and investigate into the affairs of the society and in respect of repairing of the society and direction to refund the extracted amounts to the disputant from 2007 to 2018 towards alleged repairing charges from opponent society. The disputant by way of present application prayed to pass the order to take the action against past and present managing committee for the embezzlement of the society fund. It reveals that the present dispute is about to repairing and recovery of amount in respect of repairing. Whether the managing committee of the society have made embezzlement in the funds of the society or not cannot be decided at this stage. The dispute is at primary stage. Whether the managing committee of the society have done any illegality in respect of repairing and repairing fund of the society

cannot be decided at this stage. Hence considering the above discussion I answer point no. 1 in the negative and in answer to point no. 2 I pass the following order.

Order

1. Application at Exh. 20 is rejected.

Place : Thane
Date : 29 / 02 / 2024

Sd/-
(Smt. S. K. Tonpe)
Judge
Co-operative Court, Thane