

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. 22)

1. The present application is filed by the disputant for taking action to cancel the election year 2022-23 and dismiss the elected managing committee because bye-laws rules no. 118(ii) and notice no. TVC/26/2015-16 dated 17/01/16, and TVC/29/2015-16 dated 27/02/2016 was not followed by the Election Commissioner in the current election. As per balance sheet year 2021-22 and year 2022-23 all elected members of society having outstanding maintenance is more than nine months also lady committee member is not our society member so all are disqualifying for the election. Also in the election of the society, the Registrar's office violated the rules and conducted the election through WhatsApp. The disputant further stated that his mobile number is not in WhatsApp group which is against the law because WhatsApp is not legally recognized. Besides there is no any single minutes written. The disputant wrote a letter postponing the election as the committee has not presented and approved the accounts of three years in the general assembly. But the Sub Registrar did not stop the proceedings. There were irregularities in the previous committee's accounts. The disputant

has filed the election related copy of letter dated 17/01/2016 and 27/02/2016, complaint to the Deputy Registrar copy of the letter dated 26/07/2022, dated 14/10/2023, dated 11/09/2023 and 14/03/2023, reply of Deputy Registrar Vasai copy of the letter dated 04/01/2023, list copy of outstanding member list for year 2021-2022 and 2022-23. Hence prayed to cancel the election.

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 opponen 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 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 cancel the election for the year 2022-23 and dismiss the elected managing committee. It reveals that the present dispute is about to repairing and recovery of amount in respect of repairing. The relief prayed in the present application in respect of to cancel the election cannot be raised in present dispute. The present dispute is not election dispute. 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. 22 is rejected.

Place : Thane
Date : 29 / 02 / 2024

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