

**IN THE COURT OF JUDGE, CO-OPERATIVE COURT NO. 2
AT PUNE**

DISPUTE NO. 64/2012

Dt. 11/02/2022

Mrs. Rashmi Sayakhedkar & Anr.

.... Disputants

VERSUS

Dattaprasad Co-op. Housing Society Ltd.

.... Opponent

: Order below Exh.72 :

1] The applicant filed this application to enjoin this applicant as an Additional Opponent and to take part in the court proceedings under Order 1 Rule 8 of CPC.

2] The applicant Mr. Shridhar Krishnaji Patwardhan submitted that he is a member of opponent society. All the members of the opponent society are interested in the assets (fixed and current) of the opponent society. Therefore if any decree be passed against the opponent society interests of all the members of the opponent society shall get prejudiced. Therefore they are the necessary parties in this dispute.

3] The applicant submitted that vide its letter dated 22.12.2016, the Dy. Registrar, Co-op. Societies, Pune City (IV), Pune has appointed an Administrative Committee consisting of two members (viz : Mr. Angar Joshi and Mr. Vishwanath Athalye). The Administrator Mr. Joshi has

disclosed his intentions to revoke the Power of Attorney of Mr. Shridhar Patwardhan. However since 22.12.2016 (i.e. over a period of nine months and fifteen days), the said Administrator Committee has not called for any general body meeting and has not taken any steps to revoke the Power of Attorney of Mr. Shridhar Patwardhan. However possibility of revocation of the said Power of Attorney cannot be ruled out.

4] The applicant submitted that on perusing the Power of Attorney of the applicant, it can be noticed that both of the two members of the Administrative Committee and three other members of the society have not opposed this suit/dispute claims. In the circumstances, of the suit/dispute be defended as per the directions of the said Administrative Committee, the applicant apprehends that this dispute might not be defended properly and the same might be decreed in favour of the disputant and then the interests of all the members (including applicant) of the opponent society might get prejudiced. Hence applicant is necessary party to this dispute.

5] The applicant submitted that for the reason stated above, the applicant is a necessary party to this dispute. Therefore applicant may be allowed to take part in

this dispute as an Additional Party to dispute to safe guard his own personal interests. Therefore prayed to enjoin this applicant as an Additional Opponent and allow him to take part in the court proceedings.

6] The disputant recorded the reply below the application and strongly objected. Mr. Patwardhan is filing this application to join himself as party defendant. When the society is there to defend this matter. This intervener can't be step into. Alleged Power of Attorney is not filed on the record. It is apprehension that society may not defend suit properly. Intervener is also a member of society. So individual can't be add as a party defendant without plausible reason. After the election, society's representative can defend this case. Same type of application is filed by this applicant below Exh.65. So it can't be considered at this time. Application is liable to be rejected with cost of Rs.2,000/-

7] Following points arise to my mind to which I answer the findings thereon as under -

S.No.	Points	Finding
1	Is it necessary to add the applicant as an additional opponent in view of order I Rule 8 of CPC,1908 ?	No
2	What order ?	As per final order

Reasons

As to point no.1 and 2 -

8] The applicant (intervenor) filed this application to add him in this dispute as a additional opponent. According to the applicant he is a member of opponent society. He is interested in the assets (fixed/current) of the society. The applicant raised the concern that if any decree passed against society then interest shall get prejudiced. Therefore, applicant submitted he is necessary party to defend the dispute.

9] The disputant filed the reply to this application at Exh.77 and denied the contentions of the applicant. The disputant submitted that opponent society is already party to the dispute. Society is opponent competent to defend the matter. The applicant (intervenor) cannot step into the dispute as a opponent as he is also individual member of society. And society is representing to all members. The intervenor has filed same application below Exh.65. Therefore, he prayed to reject the application with cost.

10] The opponent society also filed the reply at Exh.74 and filed the documents at Exh.77. The society has taken strong objection to add the intervenor. According to

society they are representing to all members of society. They are competent enough to defend the dispute. The documents filed by the opponent society it reveals that on 13/4/2017 Deputy Registrar passed the order and appointed authorized officers Mr. Angar Joshi and Mr. Anand Yadav to look after the matters of society till elections of society's get completed.

11] The documents are on record it also reveals that the election process of opponent society for the year 2018-2023 has completed, list of elected members dated 31/3/2018 is filed. The processing book of opponent society shows that on 01/4/2018 the meeting was held to elect the members to form managing committee of opponent society and accordingly resolution passed and Chairman, Secretary and Treasurer elected to hold the responsibility of society. There also one resolution passed on 08/4/2018 in the meeting of managing committee of opponent society the dispute no.64/2012 and 15/2014 which are pending in the co-operative court, in that to represent the opponent society and to make submission on behalf of society in stead of Mr. Shridhar Parwardhan (intervenor), Mr. Angar Joshi (Chairman) has appointed.

12] Considering all these aspects it seems that it is the resolution which has been passed in the managing

committee on 08/4/2018 and Chairman of society has appointed to represent the society and power of intervenor to represent the society has removed. Therefore, in such circumstances it is not expected to the Court to interfere in the internal management of the opponent society regarding appointment of Chairman to represent the society in the disputes/cases. Admittedly intervenor is a member. Intervenor has raised apprehension that opponent society is not properly defending society if such way society is representing the dispute will be decreed in favour of disputant. However, for this he has not filed any evidence to support his contention. Mere apprehension is not sufficient to add someone in the dispute.

13] The intervenor relied upon the following authorities and ratio laid down in the authorities of Hon'ble Apex Court.

- (1) II (1991) Banking Cases 39 (P&H)
Smt Swaran Kaur V/s Sh Harpal
- (2) I (1992) Banking Cases 236 (P&H)
Smt Vidya Chawala V/s State of Haryana
- (3) II (1994) Banking Cases 666 (P&H)
Anil Kumar V/s Gurdilal Singh

- (4) 1995 ISJ Banking 346 (AP)
Ghummudi Ramlu V/s Gadey Shrinivas Rao
- (5) 1995 ISJ Banking 358 (P&H)
Bank of India V/s Sikka Rice & Gen Mills
- (6) I (1998) Banking Cases 7 (Kant)
National Co-op Bank V/s M/s. CVS Trading Co.
- (7) II (2001) Banking Cases 112 (Madras)
Ion Exchange Finance Ltd V/s M/s. Haileburia Tea Estate Ltd
- (8) II (2002) Banking Cases 418 (P&H)
Punjab National Bank V/s State Bank of India

Ratios -

- (a) A person is a necessary party to the suit whose interest gets affected by operation of a decree.
- (b) A necessary party to the suit should be added as an additional party to the suit u/p of Order I Rule 10 of CPC.
- (c) Although Plaintiff is a Dominus litus, a bar u/p Order I Rule 10(2) shall not operate in case of a necessary party.

14] Perused the written argument of intervenor at Exh.82. Upon going through all the respective Authorities,

submissions and ratio laid down in the said Authorities, it reveals that the facts, circumstances, and nature of dispute are totally different of the above Authorities to this dispute. The above Authorities with respect not applicable to this matter. As the facts and circumstances are totally different from the above Authorities. Here in this matter it is already disputant has made necessary party to the opponent society. And opponent society has passed resolution and removed the name of intervenor to defend the dispute and elected the Chairman to defend the dispute on behalf of opponent society. So this is the decision/resolution of opponent society, so intervenor has remedy to challenge the said resolution. Instead of that intervenor cannot make application to Court to allow him as a additional party/necessary party to defend the dispute on behalf of opponent society. If such application allow by the Court it will create chaos in between society and additional party (intervenor) to defend the dispute which will create confusion and it will be difficult to parties to proceed in the matter. Hence, the authorities filed by the intervenor not supporting to his views. Hence, the submission of intervenor cannot be accepted in view of Order I Rule 8. The application has no merit at all. Hence, this application is rejected with

cost of Rs.2,000/- payable to the disputant on next date.
Hence, this order.

: **ORDER** :

1. Application Exh.72 rejected.
2. Intervenor is directed to pay cost of Rs.2,000/- to the disputant.

Date : 11/02/2022
Pune

Judge
Co-operative Court No.2
Pune.