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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2992 OF 2011

Nilkanth Nagar Coop. Housing Society ... Petitioner

Versus

Bhuvaneshwar Rajkishor Tripathi and Ors. ... Respondents

Mr. Prashant Kulkarni for the petitioner.

Mr. Anil Singh i/by Mr. D.R. Shah for respondent no. 2.

Respondent no. 1 present in person.

Ms. P.S. Cardozo, A.G.P. for respondent nos. 4 and 5.

CORAM : S.C. DHARMADHIKARI, J.

DATED : JUNE 27, 2011

P.C.

Heard both sides.

Rule.

Respondent waives service.

Heard parties on the question of interim relief.

The Divisional Joint Registrar had by order dated 23rd September, 2009 confirmed the registration certificated dated 12th March, 1992. While confirming the same he has held that the society is registered in the year 1992 and after the long lapse of 17 years the same

cannot be de-registered on the ground that the society is not the purchaser or owner of the entire property consisting of 3 chawls, one bungalow along with entire plot of the land and that the claim of ownership rights is illegal. Further, society cannot seek to develop the property as if it belongs to it exclusively or that it has illegally sold the flats.

If there are any independent rights which are claimed by respondent nos. 1 and 2, then their remedy was to seek appropriate declaration on the issue of title that is claimed by them. They ought to have and one of them had filed proceedings in the Civil Court against the society. Subject to the rights and contentions of the parties in the pending appeal and clarifying that it will be open for them to seek such remedies as are permissible in law, it is directed that the order passed by the Minister of Cooperation and Textiles, Government of Maharashtra dated 1st March, 2011 shall not take effect during the pendency of this writ petition. However, this is without prejudice to the rights and contentions of the parties on the issue of right, title and interest in the immovable property.

(S.C. DHARMADHIKARI,J.)