

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION (L) NO.23097 OF 2024
IN
SUIT NO.152 OF 2024**

Mukesh Sharma & Anr. ... Applicants (Orig. Plaintiffs)

In the matter between

Mukesh Sharma & Anr. ... Plaintiffs

V/s.

Laram Centre Co-operative Housing
Society Ltd.

... Defendant

**WITH
INTERIM APPLICATION (L) NO.25624 OF 2024
IN
SUIT NO.152 OF 2024**

Mr. Sanjay Jain a/w Spenta Havewala i/by Viraj Jadhav for the Applicants/Plaintiffs.

Mr. Pravin Samdani, Senior Advocate a/w Harshil Parekh a/w Xexes Barucha for proposed Respondent No.2.

Ms. Ruchi Magoo a/w Mr. Sagar Pillai i/by Lexicon Law Partners for proposed Respondent No.3.

Mr. Mayur Khandeparkar a/w Mr. Vikramjit Singh Garewal a/w Ms. Dhvani Mehta Desai a/w Ms. Sunain Masand i/by DM Law Chambers for the Applicants in IA(L) No.25624 of 2024.

CORAM : ARIF S. DOCTOR, J.

DATE : 3RD SEPTEMBER 2024

P.C. :

1. The matter was heard for some time.
2. An issue on the point of maintainability of the Suit at the instance of the two members of a co-operative housing society was raised. I *prima facie* find merit in this contention.
3. Mr. Jain, Learned Counsel appearing on behalf of the Applicants/Plaintiffs seeks time to place before me certain judgements which he would rely upon to show entitlement of the members of the Managing Committee to file a Suit in the nature as has been filed presently.
4. I am also told that another Interim Application has also been filed by certain other members of the Society seeking recall of a previous order, which records statement of the Managing Committee that they will follow the process of law as contemplated under Section 79A of the Maharashtra Co-operative Societies Act, 1960.

5. Mr. Khandeparkar, Learned Counsel appearing on behalf of the Applicants in IA(L) No.25624 of 2024 submits that this is undisputed position in law that the Circulars issued under Section 79A are not mandatory. The previous order ties hands of the General Body to exercise its powers. This also, to my mind, is well settled position in law. It is submitted that the previous statement was made by the Committee which was only to facilitate for appointment of certain developer.

6. Be that as it may, let the pleadings be completed. Affidavit in Reply, if any, to be filed on or before 18th September 2024. Affidavit in Rejoinder, if any, to be filed one week thereafter.

7. Stand over to 4th October 2024 under the caption 'for hearing'.

8. Additional Affidavit filed by Mr. Khandeparkar is taken on record.

(ARIF S. DOCTOR, J.)