

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

[1] LETTERS PATENT APPEAL NO.367 OF 2008
 IN
 WRIT PETITION NO.3115 OF 2006
 WITH
 CIVIL APPLICATION NO.331 OF 2008
 IN
 LETTERS PATENT APPEAL NO.367 OF 2008

 ...
 ALONG WITH
[2] LETTERS PATENT APPEAL NO.368 OF 2008
 IN
 WRIT PETITION NO.3118 OF 2006
 WITH
 CIVIL APPLICATION NO.330 OF 2008
 IN
 LETTERS PATENT APPEAL NO.368 OF 2008

 ...
 ALONG WITH
[3] LETTERS PATENT APPEAL NO.369 OF 2008
 IN
 WRIT PETITION NO.3117 OF 2006
 WITH
 CIVIL APPLICATION NO.332 OF 2008
 IN
 LETTERS PATENT APPEAL NO.369 OF 2008

 ...
 ALONG WITH
[4] LETTERS PATENT APPEAL NO.370 OF 2008
 IN
 WRIT PETITION NO.3116 OF 2006
 WITH
 CIVIL APPLICATION NO.333 OF 2008
 IN
 LETTERS PATENT APPEAL NO.370 OF 2008

 ...
 ALONG WITH
[5] LETTERS PATENT APPEAL NO.371 OF 2008
 IN
 WRIT PETITION NO.3119 OF 2006
 WITH
 CIVIL APPLICATION NO.334 OF 2008

IN
LETTERS PATENT APPEAL NO.371 OF 2008

[6] . . .
 ALONG WITH
LETTERS PATENT APPEAL NO.372 OF 2008
 IN
 WRIT PETITION NO.3120 OF 2006
 WITH
 CIVIL APPLICATION NO.335 OF 2008
 IN
LETTERS PATENT APPEAL NO.372 OF 2008

[7] . . .
 ALONG WITH
LETTERS PATENT APPEAL NO.373 OF 2008
 IN
 WRIT PETITION NO.3121 OF 2006
 WITH
 CIVIL APPLICATION NO.336 OF 2008
 IN
LETTERS PATENT APPEAL NO.373 OF 2008

[8] . . .
 ALONG WITH
LETTERS PATENT APPEAL NO.374 OF 2008
 IN
 WRIT PETITION NO.3122 OF 2006
 WITH
 CIVIL APPLICATION NO.337 OF 2008
 IN
LETTERS PATENT APPEAL NO.374 OF 2008

[9] . . .
 ALONG WITH
LETTERS PATENT APPEAL NO.375 OF 2008
 IN
 WRIT PETITION NO.3123 OF 2006
 WITH
 CIVIL APPLICATION NO.338 OF 2008
 IN
LETTERS PATENT APPEAL NO.375 OF 2008

[10] . . .
 ALONG WITH
LETTERS PATENT APPEAL NO.376 OF 2008
 IN
 WRIT PETITION NO.3124 OF 2006
 WITH

CIVIL APPLICATION NO.339 OF 2008
IN
LETTERS PATENT APPEAL NO.376 OF 2008

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The Gandhi Bhuvan Co-operative
Housing Society Ltd.. ..Appellant.
Versus
The Divisional Joint Registrar
C.S., M.D., Mumbai and others. ..Respondents.

Mr.B.G. Vaidya, Advocate for the appellant.

Mr.P.I. Khemani, A.G.P. for the respondent - State.

Mr.P.K. Dhakephalkar, Senior Advocate i/b.
Mr.Y.M.Chaudhari, Advocate for respondent No.4.

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CORAM : J.N. PATEL AND
SMT.V.K.TAHILRAMANI, JJ.

DATED : 27TH FEBRUARY, 2009.

P.C.:-

1. Heard.

2. The appellant has impugned the order dated 28th January, 2008 passed by the learned Single Judge in Writ Petition Nos.3115 of 2006 to 3124 of 2006. By the said order, the learned Single Judge upheld the order of the Divisional Joint Registrar, Co-operative Societies, Mumbai dated 30.1.2006, and the appellant society was directed to admit the respondents as members of the society.

3. The Deputy Registrar, Co-operative Societies, Mumbai passed an order dated 31.3.2005 directing that the respondents be admitted as members of the society. The said decision was challenged by the appellant society before the Divisional Joint Registrar in Revision. The Revision Application came to be dismissed and the order of the Deputy Registrar came to be confirmed. Being aggrieved thereby, the appellant Society preferred Writ Petition Nos.3115 of 2006 to 3124 of 2006. The said Petitions came to be dismissed. Hence, these Letters Patent Appeals.

4. In the year 1999 the appellant - Society executed development agreement for constructing the multi storey building in place of old chawl. Some of the flats in the said building were sold in open market. The respondents are some of these flat holders. As the Society did not grant membership to the respondents, they approached the Deputy Registrar, Co-operative Societies, Mumbai.

5. The case of the appellant Society is that none of the respondents had submitted application for getting membership of the Society and hence there was

no question of allotting membership to them. However, from the record it is seen that the respondents had infact submitted a request to the Society to give them membership and share certificate. The Deputy Registrar in his order dated 31.3.2005 has observed that on the hearing date on 17.3.2005 the Advocate for the Society accepted that the applications for membership from the 11 flat holders had been received. In view of this clear admission made by the learned Advocate for the Society, it is apparent that the applications were received from the members and the Society had not intimated its decision to these persons within prescribed period of three months. Hence, the Deputy Registrar directed that all these members of the society shall be issued share certificates and their names be recorded as members of the society. The Divisional Joint Registrar observed in his order that as the Advocate for the Society accepted that the Society had received total 11 applications from the flat holders for membership and no intimation was given to these persons within the period of 3 months, no case was made out for interference with the order of the Deputy Registrar, Co-operative Societies.

6. The contention of the appellant Society is that none of the respondents had preferred an application to the society for membership. However, the facts on record do not support this contention. Before the Deputy Registrar itself it was admitted by the learned Advocate for the Society that infact they had received applications from 11 members. It is pertinent to note that when the appellant had challenged this finding before the Divisional Joint Registrar and contended that no such statement was made before the Deputy Registrar yet no attempt was made by the appellant Society to pray for review of the order on the ground that no such statement had been made by the learned Advocate for the Society. In such circumstances, the learned Single Judge has rightly held that the facts do not support any such contention that no application was made by any of the respondents for membership of the society. We see no error or illegality in the order of the learned Single Judge. All Letters Patent Appeals are dismissed. Civil Applications are also dismissed as infructuous.

[J.N.PATEL, J.]

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[SMT.V.K.TAHILRAMANI, J.]