



REAL ESTATE

Guidelines under Section 79(A) Held Directory, Not Mandatory in Redevelopment Cases

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Facts

The Petitioner, Devendra Kumar Jain, was the former Chairman of Ramanuj Co-operative Housing Society Ltd. (Respondent No. 3), from which he was removed in 2023. During his tenure, the Society had approached Cunni Realty and Developer Private Limited (Respondent No. 4) for the redevelopment of its premises. The Petitioner opposed the redevelopment process, alleging that it was being undertaken without following the due procedure prescribed under law. After his removal from office, the Society issued a Letter of Intent (LOI) to the Developer without conducting a tender process. Aggrieved, the Petitioner raised a grievance before the Deputy Registrar (Respondent No. 2), contending that the Society had failed to follow the prescribed guidelines and had acted in an arbitrary manner. Subsequently, a Special General Body Meeting (SGBM) was held on 29 September 2024, during which the Society passed resolutions and circulated a draft Letter of Intent in favour of the Developer. The said redevelopment was also part of a larger “Mahesh Nagar Federation” cluster redevelopment project involving four co-operative housing societies.

Analysis

The Court observed that the guidelines issued by the State Government under Section 79(A) of the Maharashtra Co-operative Societies Act, 1960 are directory in nature and not mandatory. Relying on prior judgments, the Court reiterated that substantial or material compliance with these guidelines is sufficient, and every minor procedural lapse cannot be treated as a ground for invalidating the entire redevelopment process. The Court noted that the Special General Body Meeting had been conducted in the presence of an Authorized Officer appointed by the Deputy Registrar, and that a majority of members had given their consent to the redevelopment proposal. The Society’s decision-making process, therefore, reflected democratic participation and adherence to the essence of the guidelines. The Petitioner, being the only dissenting member, could not claim a superior right to obstruct a redevelopment process that had received the overwhelming approval of the Society’s members.

Judgment

The Court dismissed the Writ Petition, holding that Respondent No. 3 Society had substantially complied with the procedural requirements and that the redevelopment decision was made in a properly convened meeting with the requisite majority approval. The Court further held that the guidelines under Section 79(A) being directory in nature, non-adherence to every procedural detail would not vitiate the redevelopment process. Additionally, the Court observed that the Petitioner’s allegations involved disputed questions of fact, which are not suitable for determination under writ jurisdiction. Accordingly, the Court upheld the validity of the Society’s decision and allowed the redevelopment project to proceed.

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