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TRANSFER OF SHARES ON DEATH OF SOCIETY MEMBER BY FAMILY ARRANGEMENT

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TRANSFER OF SHARES ON DEATH OF SOCIETY MEMBER BY FAMILY ARRANGEMENT

Introduction:

Prior to introduction of section 154B-13 of the Maharashtra Co-operative Societies Act, 1960 ("**Act**"), various societies insisted of obtaining letter of administration/heirship certificate for transmission of shares in case of death of a member. However section 154B-13 of the Act was introduced w.e.f. 9th March, 2019 which provides for various documents including "Family Arrangement" on basis of which the interest of a deceased member can be transferred on death of the member. In absence of any definition of family arrangement being provided in the Act, Hon'ble High Court of Bombay has interpreted the scope of word "Family Arrangement" in Writ Petition No.10768 of 2024 filed by Bima Nagar Co-operative Housing Society Ltd against The Divisional Joint Registrar Co-operative Society & Ors.

Factual Matrix:

The husband of the Respondent No.3 was a member of Bima Nagar Co-operative Housing Society Limited ("**Society**"). On his death, he had left behind him his wife i.e Respondent No.3 and two major children. The two major children executed a deed of relinquishment in favour of Respondent No.3 being their mother. However, the Society failed to accept the membership application on basis of deed of relinquishment and rejected the claim of the Respondent No.3 to become member of Society.

Society's Arguments:

It was the argument of the Society that the Family Arrangement would apply only to "Hindu Undivided Family" ("**HUF**") between the members of the HUF and that would be obligatory on the part of a single person who is the heir of the deceased member to obtain succession certificate/letter of administration in order to get transferred the interest of the deceased member and in absence thereof the society has rejected the application of Respondent No.3 to transfer the membership to her name alone.

Observation by the Hon'ble High Court:

- The term "Family Arrangement" could not be considered only in the case of HUF's and such interpretation is not permissible as the same would amount to adding something which legislature never intended to.
- Family Arrangement applies to any family members who enter into such an agreement, irrespective of their status as an HUF.
- If there are more than one heir of the deceased Member and they enter into a Family Arrangement, that would be sufficient to enable the Co-operative Society to transfer the membership in favour of a single person.
- Since the deceased's children had relinquished their rights in favour of their mother i.e. Respondent No.3, the Hon'ble Court considered Deed of Relinquishment akin to Family Arrangement.
- Therefore Deed of Relinquishment being Family Arrangement, the Hon'ble Court found no reason or justification not to accept the said relinquishment by children's in the favour of Respondent No.3 and to insist on a succession certificate as proposed by the society and directed the Society to consider application of the Respondent No.3 to become a member of the Society.

Conclusion:

This judgment concludes that legal formalities such as succession certificates or legal heirship certificates may not be mandatory in case of intestate succession amongst family members of deceased when a valid family arrangement or Release Deed executed among the heirs/family members and can be sufficient document on which Co-operative Society shall transfer shares without insistence of Succession Certificate/ Letter of Administration, etc.

This clarification for the transfer of shares/premises rights in Co-operative Societies was imperative since till date several societies/committees are adamant not to transfer

share/premises on basis of release/relinquishment deed and continue to on insist Letter of Administration/Succession Certificate for transfer of shares.

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