CASE NO.:

Writ Petition (civil) 379 of 1995

PETITIONER:

KAMLESH P. OZA AND ORS.

Vs.

RESPONDENT:

THE STATE OF MAHARASHTRA

DATE OF JUDGMENT:

20/07/2000

BENCH:

M.B. Shah & S.N. Variava.

JUDGMENT:

S. N. VARIAVA,J.

All the Petitioners are nationals and citizens of India. They are all residents of Bombay. By this Petition, under Article 32 of the Constitution of India, the Petitioners seek to challenge levy of stamp duty on a transfer of shares in a Co-operative Housing Society on the basis that such agreements are conveyances. It is contended by Petitioners that the State Legislature has no competence to levy stamp duty on transfer of shares in a Housing Co-operative Society, where the transferee, as an incident of membership, is entitled to the use and occupation of the premises belonging to the co-operative society. The Petitioners point out that this question is already pending in Civil Appeal No. 3707 of 1990 before this Court. Thus, the questions raised in this Petition are identical to those raised in Civil Appeal No. 3707 of 1990, viz., (a) whether the transfer of shares in the Co-operative Society is subject to levy of stamp duty under the Bombay Stamp Act, 1958 and (b) whether the State Legislature has legislative competence to levy stamp duty on a transfer of shares.