



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

**WRIT PETITION NO. 3162 OF 2021**

Capt. Rajeev Kumar and Ors. **...Petitioners**

V/s.

The State of Maharashtra and Ors. **...Respondents**

**WITH**

**INTERIM APPLICATION NO. 13808 OF 2023**

**IN**

**WRIT PETITION NO. 3162 OF 2021**

Vashi Fantasia Business Park Premises **...Applicant**

Co-Operative Society Ltd.

**In the matter between:**

Capt. Rajeev Kumar and Ors. **...Petitioners**

V/s.

The State of Maharashtra and Ors. **...Respondents**

**WITH**

**CONTEMPT PETITION NO. 248 OF 2021**

Dilip Abarao Kashikar **...Petitioner**

V/s.

Capt. Rajeev Kumar and Ors. **...Respondents**

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**Mr. G. N. Salunke** a/w Mr. P. A. Pol, Mr. Sharad Suryawanshi, Mr. Ranjit Hatkar, Ms. Gayatri Pol, i/b Pol Legal Juris for Petitioner.

**Mr. N. V. Walawalkar**, Senior Advocate a/w Mr. Nishant Tripathi a/w Mr. Pranav Vaidya i/b Mr. Tripathi and Co., for Petitioner in Contempt Petition 248/2021 and Respondent Nos. 5, 10 and 11 in WP. 3162/2021.

**Ms. Vrushali L. Maindad** for Respondent No. 8.

**Mr. S. H. Kankal**, *AGP for Respondent-State.*

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**CORAM: SANDEEP V. MARNE, J.**

**DATED: 28 SEPTEMBER 2026.**

**Oral Judgment:**

1) Petitioners challenge the Order dated 19 December 2019 passed by the Registrar, Co-operative Society, Maharashtra State, Pune (**Registrar**) allowing the Application preferred by Respondent Nos. 5 to 11 under Section 21A of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**) seeking de-registration of the society. The Registrar directed de-registration of the society on the ground that there was misrepresentation at the time of registration of the society. The order dated 19 December 2019 has been confirmed in revision by the Hon'ble Minister, Cooperation by order dated 17 March 2021, which is also the subject matter of challenge in the present Petition.

2) By order dated 16 December 2024, the Petition has been admitted and ad-interim stay granted vide order dated 7 May 2021 to de-registration order has been continued. With the consent of the learned counsel appearing for the parties, the Petition is taken up for final hearing.

3) I have heard Mr. Salunke, the learned counsel appearing for Petitioner, Mr. N. V. Walawalkar, the learned Senior Advocate appearing for Respondent Nos. 5, 10 and 11 in WP. 3162/2021 and for Petitioner in

C.P. 248/2021, Ms. Maindad, the learned counsel appearing for Respondent No. 8 and Mr. Kankal, the learned AGP appearing for Respondent-State.

4) Perusal of the impugned orders passed by the Registrar and the Hon'ble Minister would indicate that de-registration of the society is ordered essentially by recording a finding that sufficient persons were not included in the registration proposal and there were certain discrepancies in the documents submitted at the time of registration of the society. The society is formed by occupants/purchasers of the commercial units in the building. The society has been registered on 22 October 2010. The occupancy certificate of the building was issued on 21 October 2011. In the year 2016, the managing committee of the society commenced the work of installation of VRF Air Conditioning System in the building. It appears that on 6 December 2018, the newly elected managing committee of the society took up the charge of its affairs. The society apparently took various decisions in relation to installation of VRF Air Conditioning System in the building. Work order for installation of VRF Air Conditioning System was issued. It appears that some of the members including Respondent Nos. 5 to 11 were not satisfied with the manner in which the work of installation of VRF Air conditioning System in the building was being carried out. They filed several complaints to the Registrar with regard to the manner in which affairs of the society were being conducted. It appears that on 6 August 2019, an Inquiry Officer was appointed to examine the allegations raised by Respondent Nos. 5 to 11. Parallely, an order under Section 77A of the MCS Act was passed by the Joint Registrar on 25 July 2019 appointing an

Administrator/Authorized Officer in respect of the society. The members of the managing committee preferred an Appeal before the Hon'ble Minister, Cooperation against order passed under Section 77A. It is the case of Respondent Nos. 5 to 11 that during pendency of various proceedings before the Registrar relating the manner of conduct of affairs of the society, they came across various documents under the Right to Information Act, 2005 about the manner in which the society got registered on 22 October 2010. Accordingly, Respondent Nos. 5 to 11 filed Application for de-registration of the society on 7 September 2019.

5) The above chronology of the events would indicate that the Application for de-registration of the society was filed by Respondent Nos. 5 to 11, who had earlier initiated proceedings questioning the manner in which the affairs of the society were being conducted. By way of happenstance, they chanced upon certain records relating to registration of the society. They changed their track and applied for de-registration of the society of which they are members and in respect of affairs of which they had grievances.

6) Can members of the society, who are aggrieved by the actions of the managing committee, seek de-registration of the very society which they are members of? Can grievances of the aggrieved members against the managing committee be permitted to be escalated to the extreme level of wiping out the very existence of the society? Is the extraordinary remedy under Section 21A of the MCS Act for de-registration of the society intended to be provided by the Legislature to the members who are aggrieved by the actions of the managing

committee? Answers to all these questions appear, to my mind, to be in an emphatic negative.

7) Seeking de-registration of a co-operative society by its very member is akin to cutting the branch of the tree on which he sits. It is a self-destructive approach and the remedy under Section 21A of the MCS Act is not intended to be provided for such self-destructive actions.

8) In my view, if members of the society are aggrieved by the manner in which affairs of the society are being conducted, there are several remedies provided for in the MCS Act. De-registration of the society can never be a remedy for a person who is aggrieved by the actions of the managing committee. Ordinarily, when a society is registered, the order of registration can be appealed under Section 152 of the MCS Act. It is only in a rare circumstance that the provisions of Section 21A of the MCS Act can be invoked for seeking de-registration of the society. Section 21A of the Act provides thus:

**21A. De-registration of societies.—**

(1) If the Registrar is satisfied that any society is registered on misrepresentation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served or any primary agricultural co-operative credit society using the word 'Bank', 'Banking', 'Banker' or any other derivative of the word 'Bank' in its name, he may, after giving an opportunity of being heard to the Chief Promoter, the committee and the members of the society, de-register the society:

Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing on each such individual member, a public notice of the proceedings of the de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the

members of the society including the Chief Promoter and the members of the Committee of the Society, and no proceeding in respect of the de-registration of the society shall be called in question in any Court merely on the ground that individual notice is not served on any such member.

(2) When a society is de-registered under the provisions of sub-section (1), the Registrar may, notwithstanding anything contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of Official Assignee as the circumstances may require.

(3) Subject to the rules made under this Act, the Official Assignee shall realise the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.

(4) The Official Assignee shall be paid such remuneration and allowances as may be prescribed; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.

(5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any officer below the rank of a Joint Registrar of Co-operative Societies.

9) The extreme measure of de-registration of the society can be sought only when one of the four enumerated eventualities exist viz.

(i) if the Registrar is satisfied that society is registered on misrepresentation made by the applicants, (ii) where work of the society is completed/exhausted, (iii) the purposes for which the society has been registered are not served, and (iv) where primary agricultural cooperative credit society uses the word 'Bank', 'Banking', 'Banker' etc.

10) Thus, as opposed to the normal remedy of preferring an appeal against registration of the society under Section 152 of the MCS Act, the remedy under Section 21A of the Act is not intended to be exercised in a routine or casual manner. Mere discrepancies in the

registration process can never be a ground for taking the extreme measure of de-registration of a society, particularly after passage of substantial time. In **Elite Diagnostic Center Pvt. Ltd. Vs. Krishna Kunj Co-op. Housing Society Ltd and Ors<sup>1</sup>**, this Court has held in paragraph 25 of the judgment as under:

25) I am in agreement with the findings recorded by the Hon'ble Minister. The remit of enquiry under Section 21A of the MCS Act is in extremely narrow compass. As observed above, there is a separate remedy of filing Appeal against registration of the society under Section 152 of the Act, which is a much broader remedy. **The power of deregistration is to be exercised in rare circumstances where one out of the four enumerated circumstances under Section 21A is made out.** The first circumstance of 'misrepresentation' is not to be misunderstood as giving wide or unbridled power on the Registrar of recalling the decision of registration. While exercising the power under Section 21A, the Joint Registrar cannot sit in appeal over the decision of the Assistant Registrar. It is only in a rare case where registration of the society is based on misrepresentation by the Applicants that the power of de-registration can be exercised. **The misrepresentation must be of such nature and degree that if not made, the society would not have been registered. Mere giving of inaccurate or incomplete information cannot be a misrepresentation capable of de-registering the society. The misrepresentation must be noticed in the information given while seeking registration.** The information on the basis of which registration is obtained must be demonstrated as false or the documents submitted must be demonstrated as forged or fabricated. Misrepresentation cannot be assumed on the basis of events occurring subsequent to the registration of the society.

*(emphasis added)*

11) This Court has repeatedly held that mere differences between the society members about the manner in which affairs of the society are conducted can never be a ground for staking at the very root of existence of the society or for seeking registration of a new society. While dealing with the issue of bifurcation of the society, in **Madhur Naina Co-operative Housing Society Limited V/s. State of Maharashtra**

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<sup>1</sup> 2026:BHC-AS:27059

and Ors.<sup>2</sup>, this Court has held that mere existence of disputes between members relating to redevelopment process cannot be a reason for invoking Section 18 of the MCS Act. In Cosmopolitan III Co-operative Housing Society Limited V/s. Hon'ble Minister Cooperation, Marketing Govt. of Maharashtra and Ors.<sup>3</sup>, this Court has held that mere existence of disputes between the society members, allegations of misappropriation, non-holding of elections, etc. are all capable of being redressed by adopting remedies under the provisions of the MCS Act and that bifurcation of the Society is not the remedy. This Court has held in paragraphs 21 and 22 of the judgment as under:

**22. The allegation of misappropriation of Society funds, non-holding of elections, irregular manner in passing of resolutions, maintenance, etc. are all issues which are capable of being redressed by adopting the necessary remedy under the provisions of MCS Act.** The enquiry which ought to have been conducted is whether the disputes have the effect of disrupting the effective management of Society. In addition, it was also necessary to consider whether the legislative intent of effective management can be achieved in the facts of present case where there is practical impossibility of division of land in proportion to the built-up area.

*(emphasis added)*

12) The MCS Act provides for the remedies to adjudicate the disputes relating to the manner of passing of resolutions, taking of decisions by the managing committee, non-following of the provisions of Act/Rules/Bye-laws, etc. The aggrieved members need to exercise those remedies and cannot adopt self-destructive approach by seeking de-registration of the very society of which they are members. If the approach adopted by the Respondent Nos. 5 to 11 is permitted, a

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<sup>2</sup> Writ Petition No.850 of 2026, decided on 22 July 2026

<sup>3</sup> (2025) 2 High Court Cases (Bom) 363

defaulter member who does not desire to pay society dues would apply for documents relating to registration of the society and if any discrepancy is noticed, such member would seek de-registration of the society with the objective of avoiding payment of maintenance dues. Thus instead of exercising the remedies provided for in the Act to dispute the maintenance dues, such defaulter member would seek to strike at the very root of formation of the society and get the society de-registered on the ground of misrepresentation for achieving the oblique motive of non-payment of the maintenance dues.

13) In my view therefore, exercise of jurisdiction by the Registrar under Section 21A in the facts of the present case was clearly unwarranted. The Registrar ought to have appreciated that Respondent Nos. 5 to 11 were fighting a battle against the managing committee of the society in respect of the manner in which decisions were being taken and implemented. Several proceedings were undertaken by Respondent Nos. 5 to 11 against the managing committee. In such circumstances, when the Registrar was presented with application under Section 21A of the MCS Act, the Registrar ought to have rejected such application at the threshold by directing the complainants to remedies under the Act in respect of their grievance with regard to management of affairs of the society. Respondent Nos. 5 to 11 themselves admit that they came across documents relating to registration of society during the course of prosecution of various other remedies with regard to their challenges to the decisions taken by the managing committee. The Registrar ought to have appreciated this position and ought not to have exercised powers under Section 21A of the MCS Act in the facts and circumstances of the

present case. Unfortunately, the Hon'ble Minister has also not appreciated this position and has proceeded to approve the extreme measure of de-registration of the society by holding that there were discrepancies in the documents presented at the time of registration of the society.

14) Both the Registrar as well as the Hon'ble Minister ought to have been alive to the situation that de-registration of the society at this point of time would result in utter chaos with regard to management of the building of the society. Mere existence of disputes and differences between members of the society can never be a ground for taking extreme measure of de-registration of the society. It appears that there are 604 units in the building and as opposed to 604 members, complaints are being made by only about 6 to 7 members who sought de-registration of the society. Mr. Walawalkar claims that Respondent Nos. 5 to 11 are backed by 130 members. Assuming this to be true, even those 130 minority members, who are opposed to the manner of functioning of the managing committee, cannot seek to strike at the very root of formation of the society and their differences with the majority cannot be a ground for exercising extreme powers under Section 21A of the MCS Act.

15) Mr. Walawalkar has taken me through the alleged discrepancies in the documents submitted at the time of registration of the society and has submitted that there is violation of provisions of the Act. Alongwith his affidavit in reply, Respondent No.5 has produced a summary of alleged misrepresentations in the documents/applications for registration of the society. Mr. Walawalkar has also submitted a note

on misrepresentation in the registration proposal which more or less tallies with the summary attached as Annexure-B to the affidavit in reply. I have gone through the note submitted by Mr. Walawalkar, which seeks to highlight the alleged discrepancies in the form of absence of resolution authorising the Chief Promoter to file application for registration, blank spaces in Form-A, non-execution of affidavit by 10 Promoters / only chief promoter executing the affidavit, non-submission of undertaking by Chief Promoter in Form-X, incomplete information in Form-Y, blank spaces in affidavit of Chief Promoter, non-fulfillment of mandatory requirement of 60% promoter members on by-laws etc.

16) I am not inclined to consider those discrepancies, as the same are sought to be highlighted by the members who are essentially aggrieved by the actions of managing committee and sought de-registration of the society in the year 2019 which was registered in 2010. Also as repeatedly held by this Court, mere provision of incomplete or inaccurate information does not constitute 'misrepresentation' within the meaning of Section 21A of the MCS Act. The misrepresentation alleged must strike at the root of registration of the society. To illustrate, if there is no building constructed and promoters falsely represent construction of building for formation of a housing society, the same would constitute misrepresentation warranting de-registration of society under Section 21A. In the present case, the building has been constructed, occupation certificate is issued on 21 October 2011 and as many as 604 approved units have been sold to various purchasers. Formation and registration of a society for collective management of the building in such circumstances, was imminent. Merely because some of

the requirements are not fulfilled to the hilt, the same cannot *ipso facto* lead to inference of 'misrepresentation' within the meaning of Section 21A of the MCS Act. I am satisfied that there is neither any fraud or misrepresentation in registration of the society as sought to be alleged by Respondent Nos.5 to 11. Those Respondents have an axe to grind against the managing committee, possibly about the manner in which some of the decisions are taken and implemented by the committee relating to installation of VRF air conditioning system, parking tender, electrical works etc. Even if it is assumed that any illegalities or irregularities are committed by the managing committee in execution of those works, the same cannot be a ground for de-registration of the society. Respondent Nos.5 to 11 have already adopted remedies in respect of actions of the managing committee. They cannot be permitted to adopt a self-destructive approach by seeking to wipe out the very existence of the collective body formed for the purpose of managing affairs of the building.

17) In my view therefore, the exercise of jurisdiction under Section 21A of the Act by the Registrar is itself contrary to the scheme of the MCS Act. The power is exercised only because there are differences between the members of the society relating to management of affairs of the society. Since the impugned orders suffer from grave jurisdictional errors, in my view, they are indefensible and are liable to be set aside.

18) Petition accordingly succeeds. Order dated 19 December 2019 passed by the Registrar as well as Order dated 17 March 2021 passed by the Hon'ble Minister, Cooperation are set aside.

19) Writ Petition is **allowed** in above terms. Rule is made absolute. There shall be no order as to costs.

20) In view of disposal of the main Writ Petition, nothing survives in the Contempt Petition and Interim Application and the same are accordingly **disposed of**.

**[SANDEEP V. MARNE, J.]**