

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

WRIT PETITION NO. 11391 OF 2026

Ratanji S. Desai & Ors.

....Petitioners

: Versus :

State of Maharashtra, through the
Govt. Pleader & Ors.

....Respondents

Mr. Atul Damle, Senior Advocate with Mr. Nikhil Jayakar i/b. Ms. Ranjana Parab, for the Petitioner.

Mr. Naushad Engineer, Senior Advocate with Mr. Amanjhot Anand, Ms. Bhavana Dubepatil i/b. M/s. Pravin Mehta and Mithi & Co., for Respondent Nos.5 and 6.

Mr. Aseem Naphade with Mr. Vishal Thaker, Mr. Mulanshu Vora, Mr. Adish Shah, Ms. Anjali Trivedi i/b. V. Thakers, for Respondent No.4.

Mr. A.C. Bhadang, AGP for State.

CORAM : SANDEEP V. MARNE, J.

DATED : 8 SEPTEMBER 2026.

P.C :

1) Petitioner challenges order dated 10 August 2026 passed by the Divisional Joint Registrar, Mumbai Division, Mumbai dismissing Revision Application No. 242/2026 and confirming the order dated 18 June 2026 passed by the Deputy Registrar. By his order dated 18 June 2026, the Deputy Registrar has disqualified the Petitioners who were

office bearers of Respondent No.4-society from being members of the Committee and from being elected as members for a period of one year under the provisions of 76(2) of the Maharashtra Co-operative Societies Act, 1960.

2) I have heard Mr. Damle, learned Senior Advocate appearing for the Petitioners, Mr. Engineer, the learned Senior Advocate appearing for Respondent No.5 and Mr. Naphade, the learned counsel appearing for Respondent No.4.

3) It must be observed at the very outset that there is an objection raised on behalf of the Petitioners about Mr. Naphade representing Respondent No.4-society. However, in view of the fact that the Petition is being decided on the basis of submissions canvassed on behalf of the Petitioners and Respondent No. 55 it is not necessary to deal with that objection.

4) Respondent No.4-society has decided to undertake redevelopment of its building. A Resolution to that effect was passed in the year 2013 by the Special General Body. M/s. Kolte Patil Developers was appointed for the proposed redevelopment project in the year 2013 and a Memorandum of Understanding was executed on 26 August 2014. In December 2021, the Society appointed a Project Management Consultant (**PMC**). The Society thereafter terminated the appointment of M/s. Kolte Patil Developers and it was decided to invite fresh tenders for appointment of a new developer. Accordingly, in February 2024, advertisement was issued in the newspapers and four bids were received by the society. The PMC prepared a comparative chart in respect of the bids. The society issued notice and agenda for a Special General Body Meeting (**SGBM**) to be held on 21 April 2024 for presentation of the three bids of the eligible developers. On 21 April 2024, SGBM was held

at which the presentations were made by two out of the 4 bidder-developers. Another SGBM of the society was held on 30 June 2024, in which no business could be transacted due to lack of quorum. On 7 July 2024 another SGBM was held for which again there was no requisite quorum.

5) On 6 October 2024, a requisition was sent by 29 members for convening a Special General Body Meeting of the society for three agenda items of (i) appointing and forming a Tower Committee, (ii) appointing a new PMC and (iii) issuance of a fresh tender. The Managing Committee adopted a resolution in meeting of 13 October 2024 to proceed ahead with redevelopment with the two developers (Arkade and Runwal) by issuing them notices rather than going for fresh bidding. The Managing Committee accordingly issued notice for Special General Body Meeting on 15 November 2024 and agenda item-2 was for appointment of a developer. The Managing Committee however did take cognizance of the requisition dated 6 October 2024 and decided to add all the three items in a proposed meeting scheduled to be held on 1 December 2024.

6) In the meeting held on 1 December 2024, a Resolution was adopted by the majority for selecting M/s. Arkade Developers for carrying out the redevelopment process. The three items in the requisition made vide letter dated 6 October 2024 were put to vote and 72 members voted against the said three items.

7) It appears that the members of the society had reservations about M/s. Arkade Developers changing the offer from pure residential to residential plus commercial. The members who were opposing the developer's appointment desired publication of fresh tenders and invitation of fresh offers for appointment of developer. Accordingly, one

more requisition dated 31 December 2025 was made for convening SGBM in respect of the seven agenda items.

8) It appears that the Managing Committee took note of the debate happening amongst the members and apparently called for revised offer from the developer who this time offered 36% additional area for residential plus commercial development or 24% additional area for pure residential development. The Managing Committee therefore convened SGBM on 11 January 2026 vide notice dated 5 January 2026 for conduct of voting on following three options:

Option	Offers Under 33(7)B without RG & Access
1	Approval of Residential + Commercial (36%)
2	Approval of Residential only (24%)
3	None Of The Above (NOTA) i.e. Rejection of Arkade Developers

9) Before issuing notice dated 5 January 2026, the Managing Committee was already in receipt of requisition dated 31 December 2025. Unlike its previous action of adding the agenda items in the requisition in the meeting to be held on 11 January 2026, this time the Managing Committee totally ignored the requisition dated 31 December 2025 and decided to push ahead the SGBM on 11 January 2026 only on the agenda for conduct of voting. Accordingly, the SGBM was held on 11 January 2026 and by majority of 64 votes against 55 votes, option no.1 for residential plus commercial development was shown to have been passed by majority.

10) The notice dated 5 January 2026 and the minutes of the SGBM dated 11 January 2026 clearly indicates no cognizance was taken in respect of the agenda items suggested in the requisition dated 31 December 2025. It can therefore be safely assumed that the meeting in terms of requisition dated 31 December 2025 is not conducted at all.

11) Under the provisions of sub-section (2) of Section 76, the Registrar can exercise powers of disqualification of members of the Managing Committee for failure to conduct meeting after receipt of requisition under Section 76(1). Section 76 of the MCS Act provides thus:

76. Special general body meeting.

(1) A special general body meeting may be called at any time by the Chairman or by a majority of the committee and shall be called within one month-

(i) on a requisition in writing of one-fifth of the members of the society or of members the number of which is specified in the bye-laws for the purpose, whichever is lower, or

(ii) at the instance of the Registrar, or

(iii) in the case of a society, which is a member of a federal society, at the instance of the committee of such federal society.

(2) Where any officer or a member of the committee, whose duty it was to call such meeting without reasonable excuse, fails to call such meeting, the Registrar may by order declare such officer or member disqualified for being a member of the committee for such period [not exceeding five years] as he may specify in such order; and if the officer is a servant of the society, he may impose on him a penalty not exceeding [five thousand rupees]. Before making an order under this sub-section, the Registrar shall give, or cause to be given a reasonable opportunity to the person concerned of showing case against the action proposed to be taken in regard to him.

(3) If a special general body meeting of a society is not called in accordance with the requisition referred to in sub-section (1) the Registrar or any person authorised by him in this behalf, shall have power to call such meeting, and that meeting shall be deemed to be a meeting duly called by the committee.

(4)The Registrar shall have power to order that the expenditure incurred in calling a meeting under sub-section (3) shall be paid out of the funds of the society or by such person or persons who, in the opinion of the Registrar, were responsible for the refusal or failure to convene the meeting.

12) In the present case, there is complete failure on the part of the Managing Committee to convene any meeting in pursuance of requisition dated 31 December 2025. The meeting held on 11 January 2026 cannot be treated as the one conducted in pursuance of requisition dated 31 December 2025. I am not in agreement with the submission of Mr. Damle that all the agendas suggested in requisition dated 31 December 2025 were subsumed in the agenda in the notice dated 5 January 2026. The agenda in the notice dated 5 January 2026 was only for discussing either the two offers revised by M/s. Arkade Developers or to reject his appointment altogether. The agenda for calling fresh tender process etc. in the requisition dated 31 December 2025 was neither included nor was taken up for discussion in the meeting held on 11 January 2026. In my view therefore, there is clear failure on the part of the Petitioners to convene a meeting in terms of requisition dated 31 December 2025 thereby empowering the Registrar to order their disqualification under Section 76(2) of the MCS Act.

13) Mr. Damle submits that sub-section (2) of Section 76 uses the word '*may*' and that therefore it is not mandatory that in every case disqualification must be ordered. However, in the facts of the present case I am of the view that the conduct of the Petitioners has been such that their disqualification was clearly warranted. In respect of earlier meeting held on 1 December 2024 also, the Petitioners violated Bye-laws 96, 97 and 98 which provide thus :

96. A Special General Body Meeting of the Society may be called at any time at the instance of the Chairman or by the decision of the majority of the

Committee and shall be called within one month of the date of the receipt or JOINT REGISTRAR acquisition, in writing signed by at least 1/5th of the Members of the Society from the Registering Authority or from the Housing Federation to which the Society is affiliated. The meeting so convened shall not transact any business, other than that mentioned in the Notice of the Meeting fixing date, time and place for a Special General Body Meeting requisitioned.

97. The requisition for the special general body meeting of the Society, under the bye-law no. 95 shall be placed within 7 days of its receipt, before the Meeting of the Committee, by the Secretary of the Society, for fixing the date, time and place for the Special General Body Meeting of the Society.

98. The committee shall decide the date, time and place of every general body meeting of the society and the business to be transacted thereat; provided that the business to be transacted at the requisitioned special general body meeting shall be only that mentioned in the requisition. The notice convening the general body meeting shall be issued by the Secretary of the Society accordingly as provided in Bye-law No. 162. On his failure to issue the notice, the Chairman shall issue it.

14) Thus, under Bye-law 98, once requisition for Special General Body Meeting is received, no other business can be included in the notice or can be transacted in the SGBM than the one for which the requisition is made. However, in the meeting dated 1 December 2024, the Managing Committee merely added the three Agenda items of requisition dated 6 October 2024 instead of conducting Special General Body Meeting separately *qua* the requisitioned items. In respect of the second requisition made on 31 December 2025, the Managing Committee did not even include any of the seven Agenda items in the requisition in the notice issued on 5 January 2026. In my view, therefore the disqualification of the Petitioners in the facts and circumstances of the present case was clearly warranted.

15) Considering the above position, I am not inclined to interfere in the impugned orders passed by the Deputy Registrar as upheld by the Divisional Joint Registrar. The Writ Petition is devoid of merits. It is accordingly **dismissed** with no order as to costs.

16) At this stage, it is pointed out that the Petitioners have not handed over the charge despite rejection of the Revision on 10 August 2026. No interim order was passed in the present petition. In that view of the matter, Petitioner shall forthwith handover charge to the other Committee Members.

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[SANDEEP V. MARNE, J.]