

**BDP-SPS**

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D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 7997 OF 2019**

Apurva S. Laliwala

.... Petitioner.

V/s.

District Deputy Registrar of  
Co-operative Societies & Others

..... Respondents.

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Mr. Abhinav Chandrachud a/w Ms. Tulsi Shah I/b M/s S.K. Srivastav  
& Co. for the Petitioner.

Mr. A.B. Kadam, AGP for Respondent Nos. 1 and 2.

Mr. Rohan Kadam a/w Lalan Gupta I/b M/s. Dhruwe Liladhar & Co.  
for Respondent No.3.

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**CORAM: NITIN W. SAMBRE, J.**

**DATE: 23<sup>rd</sup> July, 2019**

**P.C.:-**

**1]** Towards the outstanding maintenance, at the behest of the Respondent-Co-operative Housing Society, recovery certificate came to be issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (For short "the Act) on 03/01/2019, which is confirmed in proceedings under Section 154 of the Act vide impugned order dated 08/05/2019.

2] Mr. Chandrachud, learned Counsel appearing on behalf of the Petitioner, would urge that, the fact that the dispute at the behest of Respondent-Society for recovery of the amount of maintenance for a period from 2003 to 2015 in categorical terms speaks of existence of disputed questions of fact, which, according to him, should be adjudicated by the Co-operative Court under Section 91 and that being so, both the authorities should have refused to grant recovery certificate. He has also raised certain issues on the factual matrix viz. area of the flat, non-carrying out of improvement works etc. According to him, in the aforesaid background, both the orders impugned are liable to be quashed and set aside.

3] The learned Counsel for Respondent No.3 supported the orders impugned and submitted that the Petition filed against concurrent findings is liable to be dismissed. One of the important issues to which attention of this Court is invited by the learned Counsel for Respondent-Society is, the Society has already approached the Co-operative Court in a dispute under Section 91 for recovery of the amount, which fact is not disputed by the Petitioner.

4] Apart from above, there are findings of fact recorded by both the authorities below. After having dwelled upon the controversy over such factual dispute brought to the notice of both the authorities, there are concurrent findings recorded.

5] In view of above, there is no substance in the Petition. Petition stands dismissed. Needless to observe that dispute be decided on its own merits.

( NITIN W. SAMBRE, J. )