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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4335 OF 2021**

Rajaram Shrikrishna Namjoshi ... Petitioner

vs.

Ameheet Co-op. Hsg Society Ltd and Ors ... Respondents

Mr. Siddharth C. Wakankar, for Petitioner.

Mrs. S.S. Bhende, AGP for the State.

CORAM : GAURI GODSE, J.

DATED : 12th MARCH, 2024

P.C. :-

1. Heard. This petition takes an exception to the order passed by the Divisional Joint Registrar, Cooperative Societies, dismissing the petitioner's revision application challenging the recovery certificate issued under section 101 of the Maharashtra Cooperative Societies Act (**MCS Act**).

2. Learned counsel for the petitioner submitted that the demand made by the society in the recovery certificate was time barred as the claim was from the year 1997. He submits that the amount of multiple payments made by the petitioner, was not taken into consideration while issuing recovery certificate. He further submitted

that there was a panchamana recorded to show that the entire amount has been paid as per recovery certificate. He further submits that an audit report prepared by a certified Chartered Accountant was submitted by the petitioner to show that the entire amount was paid and the claim of the society in the recovery certificate is false.

3. I have perused the papers. The revisional authority has recorded all the submissions made on behalf of the petitioner. After considering all the submissions and documents produced on record, the revisional authority has observed that though the petitioner had submitted that he had made multiple payments, the documents produced by the petitioner were not sufficient to support his submissions. With regard to the objections raised that the claim in the recovery certificate is time barred, I do not find any substance in the said ground. It is not in dispute that the petitioner is occupying the premises since the year 1997 and he is occupying additional area which is amalgamated from the area of flat no.12. It appears that after amalgamation, tripartite agreement was executed and petitioner was charged with common maintenance amount. Hence, owner of Flat No. 12 had filed dispute in the Cooperative Court, which was decided on 10th December 2007. It is the society's case that as per directions issued in the said decision, society has

calculated the maintenance amount. It appears that in the first round of litigation the recovery certificate was set aside and the matter was remanded back for fresh inquiry. Record shows that after fresh inquiry recovery certificate was issued, which is again challenged by the petitioner. All these facts have been examined by the revisional authority and have come to the conclusion that the recovery certificate is issued after following the due procedure under MCS Act and the Rules, framed thereunder.

4. The revisional authority after examining the documents have dismissed the revision application on the ground that no documents were produced by the petitioner, to show that the amount already paid is not considered while issuing the recovery certificate.

5. I do not find any error or illegality in the reasons recorded by the revisional authority in dismissing the revision application of the petitioner. Hence, there is no reason to invoke writ jurisdiction under Article 227 of the Constitution of India to interfere in the impugned order. Petition is devoid of any merits. For the reasons recorded above, the petition is dismissed.

6. Learned counsel for the petitioner submits that he has also made a prayer in the petition for directing the society to issue proper bills of monthly charges and proper bifurcation of charges and also

prayed for refund. Such prayers cannot be entertained in the writ jurisdiction. Needless, to record that the petitioner is at liberty to adopt appropriate remedy as permissible in law, for redressal of the said prayers.

(GAURI GODSE, J.)