

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11332 OF 2024**

Dhiraj Gala and Anr.

... Petitioners

Versus

Divisional Joint Registrar Co. Op. Soc. And Ors.

... Respondents

Mr. Bhavin Gada along with Mr. Dilip S. Kulkarni, Advocates for the Petitioners.

Mr. Bhavik Lallan along with Ms. Tejashree Parab i/b. Mr. Rajesh Sharma and Associates, Advocate for Respondent No.3.

CORAM : R. M. JOSHI, J.

DATED : 19th AUGUST, 2024.

P.C. :

1. Learned counsel for the petitioners has drawn attention of this Court to the impugned order, which indicates that the tenants in the property were made as members of the Co-operative Housing Society. It is his submission that law does not permit membership of a Co-operative Society unless the person owns the unit in question.

2. When learned counsel for respondent No.3 was called upon to satisfy this Court prima facie that the tenant of the premises can be joined as member of the Co-operative Society, he has sought time to file affidavit-in-reply and to substantiate his contention that they are made members by following due procedure as contemplated by the Maharashtra Cooperative Societies Act, 1960 (for short "the MCS Act").

3 Prima facie, this Court is of the view that any procedure even if followed in terms of the MCS Act, the basic question remains as to whether a person who is the tenant of the property can be joined as a member of the Co-operative Society. Irrespective of the fact that any other proceedings is being filed and pending with regard to the challenge to the resolutions concerned, prima facie case is made out by the petitioners to call upon all concerned not to take any further steps on the basis of resolution in which the tenants have been accepted as members of the society. This order shall remain in force till the next date of hearing.

4. Stand over to 27th August 2024.

5. It is open for the contesting respondent to file an affidavit-in-reply. If reply is filed, a copy be made over to other side, in advance.

6. Leave granted to the petitioners to file compilation indicating pendency of other proceedings.

(R. M. JOSHI, J.)