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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12738 OF 2025
WITH
WRIT PETITION NO.11656 OF 2025

Punam Prashant Dhige & Ors. … Petitioners

V/s.

Divisional Joint Registrar of
Coop. Societies & Ors. … Respondents

ATUL GANESH KULKARNI
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Date: 2025.12.24 13:47:59 +0530

Mr. Vishal Patil for the petitioners.

Mrs. V.S. Nimbalkar, AGP for respondent Nos.1 and 2-State.

Mr. Raj Ghosal, Power of Attorney of respondent No.3, is present in-person.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 24, 2025

P.C.:

Writ Petition No.12738 of 2025:

1. The present writ petition is filed by the housing society. The society is challenging the order passed by the authorities under the Maharashtra Cooperative Societies Act, 1960 while exercising powers under Section 23(2). The dispute is narrow. It concerns the grant of membership to the respondent in respect of a shop or gala situated in the society building.

2. The society contends that the shop or gala for which membership is claimed does not appear in the sanctioned building

plan. On this basis, the society asserts that the structure is unauthorized. According to the society, since the structure itself is unauthorized, neither the respondent nor his predecessor was ever eligible to be admitted as a member.

3. The respondent disputes this stand. He asserts that there is sufficient documentary material to show that the shop or gala forms part of the sanctioned plan. He claims that the structure is authorized and lawfully constructed. On that premise, he submits that denial of membership is unjustified.

4. This Court has already examined a similar issue in the case of *Uday Dalal and others versus Divisional Joint Registrar, Cooperative Societies and others, Writ Petition No.15089 of 2025 decided on 5 December 2025* In that case, this Court considered how the existence of a flat or premises is to be examined under Section 154B-1(13) read with Sections 154B-2, 154B-3 and 154B-5 of the Act. The principle laid down is that the authority must first determine, on the basis of sanctioned plans and relevant records, whether the premises claimed actually exists as a lawful unit.

5. In the present case, that essential exercise has not been carried out. The authorities under the Act granted membership without recording a clear finding on the core issue. They did not decide whether the shop or gala is part of the sanctioned plan or a revised sanctioned plan. Without such a finding, the decision on membership remains incomplete and legally unsustainable.

6. For this reason, the matter cannot be finally decided by this Court on the present record. The issue requires factual verification

of sanctioned plans and supporting material. That task squarely falls within the jurisdiction of the statutory authority. The proceedings, therefore, need reconsideration.

7. Accordingly, the matter is remitted to the Deputy Registrar, Cooperative Societies, Thane City. The Deputy Registrar shall re-examine the membership application strictly in accordance with law.

8. Both parties shall remain present before the Deputy Registrar, Cooperative Societies, Thane, on 5 January 2026 at 10.30 a.m. This direction is issued to ensure that the proceedings recommence without delay.

9. The Deputy Registrar shall grant full opportunity of hearing to both sides. The parties shall be permitted to place on record all relevant material, including sanctioned plans, revised plans, and any other documentary evidence. The authority shall then adjudicate whether the shop or gala in question forms part of the sanctioned plan.

10. If, upon such examination, the Deputy Registrar concludes that the shop or gala is part of the sanctioned plan or a valid revised sanctioned plan, the respondent shall be granted membership in accordance with law. If not, the application shall be decided on that basis with recorded reasons.

11. The Deputy Registrar shall complete this exercise and decide the application within a period of six weeks from the date of appearance of the parties.

12. The writ petition is disposed of in the above terms. There shall be no order as to costs.

Writ Petition No.11656 of 2025:

13. This writ petition arises from the order dated 4 July 2025 passed by the Registrar. By that order, the Registrar initiated action against the society on the allegation that it had failed to comply with an earlier direction to confer membership. The record shows that the Registrar proceeded on the assumption that the order of conferment was binding and operative. The society challenged this action on the ground that the very basis of such action was legally unsustainable. This Court has examined the material placed on record and found that the foundational order could not have been passed in the manner it was. The initiation of action was therefore without a valid foundation.

14. Once this Court has set aside the foundational order, the very cause for initiating action against the society no longer survives. There remains no operative order requiring compliance and no failure that can be attributed to the society. In these circumstances, continuation of the impugned proceedings would be unjustified. The writ petition, therefore, deserves to be allowed as the action challenged has lost its legal basis.

15. Accordingly, the rule is made absolute in terms of prayer clause (a). In the facts of the case, no order as to costs is warranted.

(AMIT BORKAR, J.)