

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16437 OF 2023

Devdarshan Co-operative Housing Society Limited	Petitioner
versus	
Smt.Rajkumari Mutneja and others	Respondents

WITH
WRIT PETITION NO.5468 OF 2024

Devdarshan Co-operative Housing Society Limited	Petitioner
versus	
Smt.Rajkumari Mutneja and others	Respondents

WITH
WRIT PETITION NO.5467 OF 2024

Devdarshan Co-operative Housing Society Limited	Petitioner
versus	
Smt.Rajkumari Mutneja and others	Respondents

Mr.Ajit J.Kenjale with Mr.Suraj J.Bansode, Ms.Sai Rajendra Kadam and Mr.Azhamuddin A.Khan i/by Mr.Shoil M.Gulabani for Petitioners.

Mr.Rajesh P.Khobragade for Respondent nos.1 and 2.

Mrs.S.S.Bhende, AGP, for Respondent no.3.

CORAM : AMIT BORKAR, J.

DATE : 12th March 2025

PC :

1. The present writ petitions assail the legality and propriety of the order dated 7th December 2022 passed by the District Deputy Registrar, Co-operative Societies, Mumbai-1, in Revision Application Nos.12 of 2021, 13 of 2021, and 14 of 2021. The said order has been passed in exercise of powers under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as the "MCS Act"), whereby the District Deputy Registrar has interfered with the certificate issued under Section 101 of the MCS Act, as subsequently amended by corrigendum.

2. Upon perusal of the impugned order, it emerges that the Petitioner Society, through its general body resolution dated 2nd January 2016, had decided to waive the terrace occupation charges levied on the Respondents. However, subsequently, by another general body resolution dated 19th March 2018, the Society resolved to impose terrace occupation charges. It has been brought to the notice of this Court that the said general body resolution dated 19th March 2018 has been made the subject matter of dispute under Section 91 of the MCS Act. However, as on the date of adjudication of the revision applications, i.e., on 7th December 2022, no interim relief was granted in the said dispute staying the implementation of the resolution dated 19th March 2018. Notwithstanding this, the District Deputy Registrar, in passing the impugned order, recorded a finding that the general body resolution dated 19th

March 2018 is contrary to the previously adopted general body resolution dated 2nd January 2016.

3. In my considered opinion, the Registrar, while exercising revisional jurisdiction under Section 154 of the MCS Act, in a proceeding arising out of the issuance of a recovery certificate under Section 101 of the MCS Act, does not possess the authority to adjudicate upon the validity or legality of a general body resolution of the society. The scope of the said jurisdiction is limited and does not extend to rendering a finding on the correctness of a resolution passed by the general body of a co-operative society. Therefore, the very basis on which the adjudication was made, culminating in the passing of the impugned order, is legally untenable and fundamentally flawed. In these circumstances, and in the interest of justice, it is necessary that the District Deputy Registrar reconsider and decide the revision applications filed by the Respondents afresh, strictly in accordance with law.

4. In view of the aforesaid discussion, I proceed to pass the following order:

: O R D E R :

- (i) The impugned judgment and order dated 7th December 2022 passed by the District Deputy Registrar, Co-operative Societies, Mumbai-1, in Revision Application Nos.12 of 2021, 13 of 2021, and 14 of 2021, is hereby quashed and set aside;

- (ii) Revision Application Nos.12 of 2021, 13 of 2021, and 14 of 2021 stand restored to the file of the District Deputy Registrar, Co-operative Societies, Mumbai-1, for fresh adjudication in accordance with law;
- (iii) The parties shall appear before the District Deputy Registrar on 24th March 2025 at 10:30 a.m. The District Deputy Registrar shall afford both parties a reasonable opportunity of hearing and shall dispose of the revision applications expeditiously, and in any event, within a period of six months from the date of first appearance of the parties;
- (iv) The communication dated 11th March 2025 issued by the District Deputy Registrar, Co-operative Societies, G/N Division, Mumbai, indicating that the elections of the Petitioner Society shall be initiated within two weeks, is accepted. The Election Authority is directed to act upon the said communication and ensure that the process for conducting the elections of the Petitioner Society is initiated and completed within two weeks from the date of this order.

5. The writ petition stands disposed of in above terms. No order as to costs.

(AMIT BORKAR, J.)