

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.15350 OF 2024

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Chirag Shantinagar Cooperative
Housing Society Ltd.

... Petitioner

V/s.

Falguni Navin Shah & Ors.

... Respondents

Mr. Shobhit Shukla, for the Petitioner.

Mr. Aakash G. Joshi, for Respondent Nos.1, 2, 6, 7, 9 &
10.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 9, 2025

P.C.:

1. **Rule.** Rule made returnable forthwith.
2. The petitioner society challenges the concurrent judgment and award of the authorities below. They set aside the General Body resolution of the petitioner society. The resolution restrained members from subletting their residential flats for commercial use. It permitted bona fide members to conduct professional activities in a part of their flats. Such use required prior permission of the Managing Committee. The authorities below further granted a declaration and a mandatory injunction. They directed the petitioner society to remove the iron sheet fixed to the main collapsible gate. It was alleged that the sheet obstructed the entrance view. The Cooperative Appellate Court set aside the General Body resolution on three grounds. First, it held that the

reasons for superseding the earlier resolution were arbitrary and not in the interest of the society. Second, it held that the resolution failed to safeguard the interests of minority members. Third, it held that no legal opinion was obtained on whether a residential flat could be permitted to be used for non residential activity.

3. This Court has already considered the scope of judicial review of resolutions passed by the General Body of a cooperative society. The decision in *Nyati Environ Cooperative Housing Society Ltd v. Shrradha Anant Pandit and others, Writ Petition No. 236 of 2025, decided on 25 September 2025*, lays down the governing principles. The Court has held that the Cooperative Court cannot examine the correctness of the decision taken by the General Body under Section 72 of the Maharashtra Cooperative Societies Act, 1960. Interference is permissible only when the resolution violates the Act, the Rules, the bye laws or the foundational cooperative principles.

4. The record does not show that the General Body acted on a misrepresentation. There is also no material to show that relevant facts were withheld from the members. The General Body took an informed decision that residential flats shall not be sublet for commercial purposes. It further decided that bona fide members may undertake professional work in part of their premises. Such permission is subject to scrutiny by the Managing Committee.

5. On a plain reading, the resolution does not offend any provision of the Act, the Rules, the Bye laws or the cooperative principles. The society stands classified under Rule 10 of the

Maharashtra Cooperative Societies Rules. Its principal object is to provide residential accommodation. The use of premises in such a society must ordinarily remain residential. If professional activity is permissible under the Maharashtra Regional and Town Planning Act, 1966 or the Development Control Regulations, the society may regulate such activity through resolutions framed in the interest of orderly management. The Appellate Court held that reasons for superseding the earlier resolution were not recorded. This view cannot stand. When a General Body acts within the four corners of the statute and pursues the objects of the society, the validity of its decision does not depend on the length or elaboration of its reasoning. The General Body acts as the sovereign body of the society. Its will, expressed through a majority, carries binding force unless it travels beyond legal limits.

6. The Appellate Court then held that the resolution failed to protect the interest of the minority members. The reasoning overlooks the settled position explained in *Nyati*. The cooperative movement is structured on equality of voting rights. Each member has a single vote irrespective of shareholding. This principle is distinct from corporate law where the rule of proportionate voting applies. The doctrine of oppression of minority members, developed in the context of company law, does not ordinarily apply to cooperative societies. A resolution adopted by the majority cannot be invalidated merely because a minority differs, so long as the decision conforms to law and the objects of the society.

7. The third ground relates to the alleged failure to obtain legal opinion before passing the resolution. There is no such mandate in

the Act, the Rules or the Bye laws. The General Body is competent to take decisions on matters concerning the internal administration of the society. The absence of a legal opinion cannot invalidate a resolution that otherwise complies with statutory requirements. The grounds relied upon by the Appellate Court have no nexus with the limited scope of judicial review available in respect of resolutions of the General Body.

8. The direction to remove the iron sheet requires separate consideration. The material shows that the iron sheet was installed pursuant to an earlier policy decision of the General Body. That decision permitted ground floor occupants to use their premises for commercial activity on payment of double maintenance. The said decision now stands superseded. In these circumstances, the steps taken by the society to secure its premises and regulate access cannot be termed illegal. There is no prohibition in the Act, the Rules or the Bye laws against such installation. The measure falls within the administrative domain of the society.

9. The Cooperative Court and the Appellate Court, therefore, erred in interfering with the General Body resolution. They also erred in directing removal of the iron sheet. The impugned orders cannot stand in law.

10. Rule made absolute in terms of prayer clauses (a) and (b).

11. The writ petition stands disposed of in above terms.

(AMIT BORKAR, J.)