

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

WRIT PETITION NO. 804 OF 2025

G. K. Solutions Pvt. Ltd.

... Petitioner

Versus

State of Maharashtra and Ors

... Respondents

Mr. Pradeep Thorat *i/b Mr. Achhra Gul Kachharam for the Petitioner.*

Ms. Dhruti Kapadia, AGP for Respondent Nos. 1 to 3-State.

Mr. Mayuresh Nagle *a/w Mr. S. P. Salkar for Respondent No.4*

CORAM : SANDEEP V. MARNE, J.

DATE : 20 JANUARY 2025.

P.C. :

1) The Petition challenges order dated 21 November 2024 passed by the District Deputy Registrar dismissing Revision Application No. 44 of 2023 and confirming the recovery certificate dated 18 August 2023 issued by the Deputy Registrar.

2) I have heard Mr. Thorat, the learned counsel appearing for the Petitioner, Mr. Nagle, the learned counsel appearing for Respondent No.4-Society and Ms. Kapadia, the learned AGP appearing for Respondent Nos. 1 to 3-State.

3) After having heard the learned counsel appearing for the parties, it is seen that the society filed proceedings before the

Deputy Registrar under provisions of Section 154B-29 of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**) for recovery of various amounts including property taxes. The Deputy Registrar found that out of the total amount demanded of Rs.6,60,57,088/-, an amount of Rs.1,19,49,217/- was towards property taxes and that property taxes were already paid by petitioner to the Municipal Corporation. The Deputy Registrar therefore proceeded to deduct the property taxes amount of Rs.1,19,49,217/- and held that the balance amount of Rs.5,41,07,871/- should be recovered from the Petitioner in addition to expenses of the application of Rs. 25,500/-.

4) However, what is ignored by the Deputy Registrar is the fact that the said amount of Rs.6,60,57,088/- included interest at the rate of 21% per annum on amount of property taxes. The Deputy Registrar merely deducted the amount of property taxes but did not deduct the amount of interest levied by the society for alleged non-payment of property taxes. This appears to be the glaring error on the part of the Deputy Registrar while issuing recovery certificate dated 18 August 2023. In my view, therefore the proceedings deserve to be remanded for reconsideration of this issue.

5) Mr. Thorat would submit that the society has charged different rates towards maintenance charges for commercial premises and residential premises. Inviting my attention to the Bill, he would submit that maintenance at the rate of Rs.10 per sq. ft. is charged for shop and Rs.4 per sq. ft is charged for flat. He would rely upon judgment of this Court in ***Sunanda Janardan Rangnekar Vs. Rahul Apartment No. 11 Co-operative Housing Society Ltd.***¹ in support of his contention that it is impermissible to levy

¹ (2006) 1 Mh.LJ 734

maintenance charges as at different rates for commercial and residential premises.

6) Mr. Thorat would further submit that some of the charges sought to be recovered fall outside the purview of provisions of Section 154B-29 of the Act.

7) In my view, since the proceedings are being remanded, it would be open for the Petitioner to raise all these grounds before the Deputy Registrar.

8) It appears that while filing the Revision, Petitioner has already deposited an amount of Rs.3,19,11,109/- with the society, which would satisfy substantial demand of the society, considering the likely reduction in the demanded amount especially in respect of interest on property taxes.

9) I accordingly proceed to pass the following order:

a) Orders dated 21 November 2024 passed by District Deputy Registrar as well as order dated 18 August 2023 passed by the Deputy Registrar are set aside.

b) The proceedings shall stand restored on the file of Deputy Registrar, who shall proceed to decide the same afresh in view of observations made by this Court in the present order.

c) All contentions of parties on merits are expressly kept open to the agitated before the Deputy Registrar.

d) The amount deposited by the Petitioner with the society shall be subject to the outcome of the final order that would be passed by the Deputy Registrar in the remanded proceedings.

e) Without prejudice to its rights and contentions the Petitioner shall pay the monthly maintenance and other charges levied by the society in respect of the period from January 2025 onwards regularly during pendency of proceedings before the Deputy Registrar. The society shall indicate the amount payable in respect of each month/quarter separately in the Bill of the Petitioner to enable it to pay the same during pendency of dispute about past dues.

10) With the above directions, the Petition is **disposed of**.

[SANDEEP V. MARNE, J.]