

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4318 OF 2025

Agnes Alphonso Parmar

...Petitioner

Versus

Dheeraj Sneha SRA Co-op. Housing Society
Ltd. Through Its Secretary Vivek Ujgaonkar

...Respondents

Ms. Archana Khan, for the Petitioner

Ms. Sahista Shaikh for Respondent No. 1

Ms. Geeta R. Shastri, for the Respondent No. 2.

Ms. P. J. Gavhane AGP for Respondent No. 3.

**CORAM: SUMAN SHYAM &
S. M. MODAK, JJ.**

DATED: 14th NOVEMBER 2025.

PC:- (Per S. M. Modak, J.)

1. Considering the narrow issue involved, we have heard the learned Advocate Ms. Archana Khan, for the Petitioner and the learned Advocate Ms. Sahista Shaikh for the Respondent No. 1- Society and Ms. Geeta Shastri, the learned Advocate for the Respondent No. 2 and Ms. P. J. Gavhane, learned AGP for Respondent No. 3.

2. It is settled law that recovery certificate granted either under Section 101 or 154B-29 of the Maharashtra Co-operative Societies Act, 1960 (for short, 'the said Act'), can be challenged by way of Revision preferred under Section 154 of the said Act. If it is an order passed by the Deputy Registrar, revision application can be filed before Divisional Jt. Registrar. Such revision is maintainable only when, the impugned order cannot be challenged by way of an appeal.

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3. It is true, there is a condition to deposit 50% of the amount prior to entertaining the revision. In this case instead of filing revision application, the Petitioner has approached this Court with request to quash and set aside the recovery certificate dated 17/07/2023 issued by Assistant Registrar. The Petitioner has averred about deposit of 10% of the amount. Even submission is recorded on 19/09/2025 about deposit of major amount.

4. Today, when we heard submission, maintainability of writ petition is challenged on the ground of availability of alternate remedy. Learned Advocate for the Petitioner has taken us through averments in the pleading. The Society-Respondent No. 1 comprises of two buildings.

5. The Petitioner was the original tenant and he was allotted SRA tenement. The Petitioner was having some grievance about illegal construction done by the members of Respondent No. 1. The Society was compelled to file writ petition. It was also disposed of on 22.10.2018 by giving direction to MCGM/SRA to remove encroachments as early as possible. On this background, it is the grievance of the Petitioner that Respondent No. 2 has demanded exorbitant amount. The Petitioner raised all the contentions before learned Assistant Registrar but these were not considered. There is recovery certificate granted for Rs. 5,10,086/- alongwith interest and even attachment notices are also issued.

6. The Petitioner is compelled to file this petition because, there is no funds available for deposit before Revisional Authorities. It is also submission that some of the amount as per recovery certificate is paid. Submission is if Writ petition is not entertained, the petitioner will be deprived of adequate legal remedy for non deposit of 50% amount. This argument may be attractive, but it cannot be accepted in view of clear provision of

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Section 154 of said Act. Hence, we have no alternative but to relegate the Petitioner to the concerned authorities.

7. Learned Advocate agrees to follow that path and prays for stay. Considering the reason quoted, we are inclined to accept said request. Hence, the following order is passed :-

ORDER

- (i) The Petitioner is granted liberty to approach concerned authorities as contemplated under the provisions of Section 154 of the Maharashtra Co-operative Societies Act, 1960, so as to challenge recovery certificate within a period of four weeks from the date of uploading of this order.
- (ii) The Petitioner is at liberty to convince the concerned authorities seeking waiver of deposit of 50% of the recoverable amount.
- (iii) For four weeks no coercive steps should be taken on the basis of recovery certificate dated 17.07.2023.
- (iv) The Petitioner is at liberty to pray for extension of stay before the revisional authorities and it can be decided by concerned authorities.
- (v) All contention of the parties are kept open.
- (vi) With these observations, the Writ Petition is disposed of.

(S. M. MODAK, J.)

(SUMAN SHYAM, J.)

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