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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5637 OF 2024

The Kandivali Roop Nagar Coop.
Housing Society Limited ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

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GANESH
KULKARNI

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Mr. Pradeep Thorat i/by Ms. Aditi Naikare for the
petitioner.

Mr. Y.D. Patil, AGP for respondent Nos.1 to 3-State.

Mr. Gaurav Gujarati for respondent No.4.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 23, 2025

PC.:

1. The present writ petition arises from the exercise of powers by the authorities under Sections 22(2) and 23(3) of the Maharashtra Cooperative Societies Act, 1960. By the impugned order, the authorities have directed conferment of membership in favour of respondent No.4.

2. The petitioner society has raised a specific objection. It contends that, as per the sanctioned plan prevailing on the date of registration of the society, the premises in question was shown as a basement. On the other hand, respondent No.4 asserts that the said premises falls within the permissible FSI and therefore qualifies as a flat within the meaning of Section 154B-1(13) of the MCS Act.

3. This Court, in the case of *Uday Dalal v. Divisional Joint Registrar, Cooperative Societies, Writ Petition (L) No.15089 of 2025 decided on 26 November 2025*, has already examined the definition of the term “flat” in the context of other provisions contained in Chapter VIII of the MCS Act.
4. The record shows that the authorities under the Act have not examined the relevant statutory provisions while directing conferment of membership upon respondent No.4. In my view, the issue requires fresh consideration in the light of the existence or otherwise of a flat as defined under Section 154B-1(13) of the MCS Act.
5. For these reasons, the impugned orders passed by the authorities below cannot be sustained and are liable to be quashed and set aside.
6. The proceedings are accordingly remitted to respondent No.2 for fresh adjudication in accordance with law.
7. All contentions of both parties are expressly kept open.
8. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)