

AGK

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

WRIT PETITION NO.8714 OF 2024

Jalaram Ashish Coop. Hosing Society
Ltd., through it's Secretary ... Petitioner
V/s.
Ravi Iyer & Ors. ... Respondents

**WITH
WRIT PETITION NO.8790 OF 2024**

Jalaram Ashish Coop. Hosing Society
Ltd., through it's Secretary ... Petitioner
V/s.
Lakshmidas Velji Bhanushali & Ors. ... Respondents

Mr. Hrishikesh S. Pawaskar for the petitioner.

Ms. V.R. Raje, AGP for respondent Nos.2 and 3 in
WP/8714/2024.

Mr. P.V. Nelson Rajan, AGP for respondent Nos.2 and 3
in WP/8490 of 2024.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 17, 2025

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The record shows that respondent No.1 in each writ petition has been served. The acknowledgment is on file. Even then, respondent No.1 has not appeared.
- 3.** Both writ petitions raise the same issue on law and fact. It is proper to decide them together. They are disposed of by this

common judgment.

4. The petitioner is a housing society. It started proceedings under Section 101 of the Maharashtra Cooperative Societies Act, 1960 for recovery of repair charges. These charges were approved by the General Body on 6 February 2011. The General Body resolved that each member should contribute Rs. 75,000 for building repairs. Respondent No.1 in both petitions did not pay. The society therefore invoked Section 101.

5. While the proceedings under Section 101 were pending, respondent No.1 filed a dispute under Section 91. The dispute challenges the General Body Resolution dated 6 February 2011.

6. The Registrar heard respondent No.1 and followed the procedure under Rule 86(a) to 86(f). After completing the required steps, the Registrar issued a recovery certificate in favour of the society.

7. Respondent No.1 filed a revision under Section 154 to challenge the certificate. The revisional authority passed the impugned order. It set aside the certificate. It held that the certificate under Section 101 could not be issued because respondent No.1 had already filed a dispute under Section 91.

8. In my view, the mere filing of a dispute under Section 91 does not stop the society from pursuing its remedy under Section 101. The statute does not create such a restriction. A member who challenges a General Body Resolution must seek and obtain interim protection from the Cooperative Court. If no such interim protection is granted, the society is entitled to continue with

recovery. The law does not permit a member to stall a statutory recovery process only by filing a dispute. The legislative scheme shows that Section 101 provides a summary and time-bound mechanism for recovery. It cannot be frustrated unless the competent forum, after examining the case, finds a prima facie ground and grants interim relief. In absence of such relief, the proceedings under Section 101 must go on.

9. The Division Bench of this Court in *Shri Basaveshwar Cooperative Credit Society Limited, Kolhapur v. Jayant Shivpal Banchhode, 2009 (2) Mh.L.J. 216*, has explained this position. The Court held that proceedings under Section 91 and Section 101 occupy distinct fields. A challenge to the Resolution falls within the domain of the Cooperative Court. Recovery of dues falls within the domain of the Registrar. Both remedies can proceed unless the Cooperative Court, upon being satisfied of a prima facie case, grants interim restraint. This principle maintains balance. It protects the right of a member to contest a Resolution. It also protects the right of the society to recover dues essential for its functioning.

10. In the present case, respondent No.1 did not secure any interim order. The Cooperative Court did not restrain the society from proceeding under Section 101. The Registrar followed due procedure and issued the certificate. There was no legal ground to interfere with it. The revisional authority, therefore, erred in setting aside the certificate. The order overlooks the statutory scheme and the principles laid down by the Division Bench. The certificate issued under Section 101 deserved to be sustained.

11. Rule is made absolute in terms of prayer clause (a) in each writ petition.

12. Both the writ petitions stand disposed of in these terms. No costs.

(AMIT BORKAR, J.)