

Shabnoor

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

WRIT PETITION NO.9998 OF 2024

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Prabhu Cooperative Housing
Society Ltd.

... Petitioner

V/s.

Aarti Naresh Thankar & Anr.

... Respondents

Mr. Vrushal Gupta, for the petitioner.

Mr. Sagar Ambedkar a/w Ms. Disha Nidre, for
respondent No.1.

Mr. J. P. Patil, AGP, for the State – respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 11, 2025

P.C.:

1. By this writ petition, the petitioner–housing society has challenged the judgment and orders passed by the authorities under the Maharashtra Co-operative Societies Act, 1960 (“the MCS Act”), whereby directions have been issued to the petitioner–society to confer membership upon respondent No.1.

2. On 1st April 2017, respondent No.1 filed an application to the petitioner–society seeking conferment of membership and transfer of shares in respect of Flat No.7. On 4th June 2017, the petitioner–society refused to grant such membership. Respondent No.1 preferred an application before the Deputy Registrar. The Deputy Registrar initially rejected the said application. Respondent No.1 thereafter preferred a revision application, which came to be

allowed by respondent No.3, directing the petitioner–society to confer membership upon respondent No.1.

3. Learned Advocate for the petitioner–society submitted that, as on the date of the application for membership, the flat or temporary structure in question was not in existence, and therefore, the society had rightly refused to grant membership. He further submitted that proceedings for expulsion of the family members of respondent No.1 have been initiated by the society, and hence, the refusal was justified. It was also contended that respondent No.1 and his family members have been causing harassment to the members of the society and the managing committee, and therefore, the society was constrained to deny membership.

4. On perusal of Section 23 of the MCS Act, read with the relevant bye-laws of the society, it is not in dispute that the society had issued a share certificate in favour of the predecessor-in-title of respondent No.1. Once such share certificate has been issued, and the predecessor-in-title has transferred his right, title, and interest in the said premises to respondent No.1 by a registered instrument, the society cannot deny membership to respondent No.1 on the ground that the structure was not in existence at the time of the membership application.

5. Merely because proceedings under Section 35 of the MCS Act are pending before the appropriate authority, in that circumstance by itself, without anything further, cannot constitute sufficient cause for refusal of membership to respondent No.1,

who is otherwise eligible to be admitted as a member of the society. Therefore, in my opinion, there is no merit in the present petition.

6. The petition stands disposed of. There shall be no order as to costs.

(AMIT BORKAR, J.)