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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12439 OF 2024

Ambika Trading Corporation ... Petitioner

V/s.

Anupam Cooperative Housing
Society Limited & Anr. ... Respondents

Mr. Prashant P. Kulkarni for the petitioner.

Mr. Drupad Patil with Mr. Ankur Kalal for respondent
No.1.

Ms. Savina R. Crasto, AGP for respondent Nos.2 and 3-
State.

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CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 17, 2025

PC.:

1. The petitioner, a member of a housing society is challenging Judgment and Orders passed by the authorities below in exercise of powers under Section 154B-29 of the Maharashtra Cooperative Societies Act, 1960 ("MCS Act") granting certificate in favour of the housing society.

2. The petitioner by way or reply broadly raised two issues before the Registrar: one, in relation to the limitation; and second, challenging compounding of interest. Apart from the said defenses, the petitioner raised a contention that the petitioner paid municipal taxes directly to the Municipal Corporation, and the petitioner has availed separate water connection and is not

availing overhead tank facility of the society and, therefore, water charges pertaining to bank premises were paid directly by the petitioner from time-to-time.

3. The Registrar, after giving due opportunity of hearing to the petitioner, issued certificate under Section 154B-29 of the MCS Act directing petitioner to pay the principal amount of Rs.27,77,855/- along with interest at the rate of 18% and interest at the rate of 21% from 1 November 2019. The said certificate has been confirmed by the revisional authority.

4. Learned advocate for the petitioner, inviting my attention to the account extract, defense raised, and other material on record, contended that the respondent-society could never have issued demand and, therefore, were not entitled to charge interest. He also submitted that the respondent-society was not entitled to the compound interest and water charges as claimed in the bill.

5. In so far as the first contention raised on behalf of the petitioner that the society did not raise demand and, hence, is not entitled to claim interest. The requirement of issuing notice to the member claiming charges derives its source from Rule 86(a)(4) (iv), which requires society to issue notice to the member.

6. Section 101 provides a special mode of recovery for certain societies. The provision states that the Registrar may grant a recovery certificate after making an inquiry in the manner prescribed. The Rules framed under the Act, particularly Rules 86A to 86F, prescribe the entire procedure for such an inquiry. These Rules lay down the form of application, scrutiny by the Registrar,

issuance of notice, opportunity of hearing, inquiry into accounts and documents, and the final order.

7. Section 154B-29 is a later and special provision enacted for housing societies. It creates an independent mechanism for recovery of dues, repairs and maintenance charges, construction cost and service charges. The structure of Section 154B-29 is similar to Section 101. Both provisions confer power on the Registrar to grant a recovery certificate. Both require furnishing of a statement of accounts and relevant documents. Both contemplate an inquiry before issuance of the certificate.

8. There is, however, a material difference in the wording. Section 101 mandates that the inquiry shall be made “in such manner as may be prescribed”. This phrase expressly links the inquiry to the Rules. The Rules made under the Act, including Rules 86A to 86F, have been framed in exercise of that power. The Rules therefore apply to inquiries under Section 101 as a matter of direct statutory command.

9. Section 154B-29 does not use the expression “in the manner prescribed”. It states that the Registrar may, after making such inquiry as he deems fit, grant a certificate. This shows that the Legislature intended to leave the procedure to the discretion of the Registrar. It did not mandate application of any particular Rules. The omission of the words “in the manner prescribed” is deliberate. When the Legislature uses a phrase in one section and omits it in another section of the same Act, the Court must give meaning to the distinction.

10. Rules 86A to 86F are framed specifically for proceedings under Section 101. They are not made applicable to Section 154B-29 either expressly or by necessary implication. The field of Section 154B-29 is different. It deals only with housing societies. It is a self-contained provision. It lays down its own preconditions and gives the Registrar wide discretion in the matter of inquiry.

11. The principles underlying the Rules can guide the Registrar while conducting inquiry under Section 154B-29. These principles include issuance of notice, opportunity of hearing and examination of accounts. These are part of natural justice and fair procedure. The Registrar must follow these basic requirements. However, the detailed procedural steps in Rules 86A to 86F cannot be imported into Section 154B-29. Such importation would amount to judicial legislation. It would defeat the legislative intention to create a simpler and faster mechanism for housing societies.

12. Therefore, the Rules framed for Section 101 do not apply to inquiries under Section 154B-29. The Registrar is only required to follow fair procedure. He must give notice. He must grant opportunity to file a reply. He must consider the accounts and documents furnished by the society as well as the defence raised by the member. After such inquiry, he may issue the certificate.

13. The inquiry under Section 154B-29 is flexible. It must be proportionate to the nature of the dispute. It cannot be equated with the detailed statutory inquiry under Section 101. The guiding test is application of mind to the record.

14. I have considered the submission that the society did not place on record any notice issued to the petitioner before approaching the Registrar. The scheme of Section 154B-29 does not make issuance of such notice a condition precedent. The Registrar is required to give notice and hearing during the inquiry. The material on record shows that the Registrar issued notice, heard both sides and examined the account extract. Once the Registrar followed a fair procedure, the absence of a prior notice from the society cannot defeat the proceedings. The contention therefore lacks merit.

15. The petitioner next questioned the charging of compound interest. I have examined the account extract with care. The entries do not show charging of compound interest. The calculation placed on record indicates simple interest. The petitioner has not produced any material to show that the society capitalised past interest or levied interest on interest. The objection is therefore without factual foundation.

16. On the issue of water charges, the position in law is clear. When a housing society provides common amenities and fixes charges for their use, every member is bound by such decision. If the society has resolved that each unit shall bear water charges proportionate to its use, the member cannot unilaterally avoid the liability. A member may obtain an additional connection for his convenience. That does not exempt him from the common charges fixed by the society for services connected with water supply. The plea raised by the petitioner, therefore, cannot be accepted.

17. Having considered the record and the contentions, I find no error in the certificate issued by the Registrar under Section 154B-29. The Registrar applied his mind to the accounts, granted hearing and issued the certificate on material placed before him. The revisional authority has also confirmed the order. The certificate does not disclose any legal infirmity that would justify interference.

18. The writ petition, accordingly stands dismissed. No costs.

(AMIT BORKAR, J.)