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

WRIT PETITION NO. 14831 OF 2024

Marathon Era Co-operative Housing Society Ltd. .. Petitioner

Versus

The State of Maharashtra,

Through Minister Co-operative Societies Dept.

and Ors.

.. Respondents

.....

- Mr. Atul G Damle, Senior Advocate a/w. Ms. Sakshi Thombre, Advocate for Petitioner.
- Mr. P.G. Sawant, AGP for Respondent Nos.1 to 3 - State.
- Mr. Ashutosh A. Kumbhakoni, Senior Advocate i/by Mr. Akshay Shinde for Respondent No.4.

.....

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 03, 2025.

P.C.:

1. Heard Mr. Damle, learned Senior Advocate for Petitioner; Mr. Sawant, learned AGP for Respondent Nos.1 to 3 - State and Mr. Kumbhakoni, learned Senior Advocate for private Respondent No.4.

2. Petitioner is a Co-operative Housing Society. Respondent No.4 is a Member of the said Society residing, rather having her flat on the 33rd floor and 34th floor in the Society building. Request is made by Respondent No.4 for installation of a house lift between the 33rd and 34th floor of the Society building. That request is contested by the Petitioner - Society.

3. Decisions of the Authorities are all placed in the Petition. Primarily those decisions enure to the benefit of the private Respondent allowing her to install the lift. Decisions are also incidentally based upon the Structural Audit Reports which are appended to the Petition as also gone into by the Authorities below. That apart, there is one more reason which needs consideration for adjudication of the present Petition, namely that this is not the first instance in the Society building seeking installation of a house lift. This is what is fairly informed to me by both the learned Senior Advocates at the bar in their usual fairness.

4. Further submission that Structural Audit Report as argued by the Respondent was obtained on the suggestion of Society is refuted by Mr. Damle. There is another report which is sought to be relied upon by the Society which enures to the benefit of the Society. Mr. Kumbhakoni, learned Senior Advocate informs the Court that this second report is prepared *ex-parte* without the consent and knowledge of the Member concerned.

5. With the able assistance of Mr. Damle as also Mr. Kumbhakoni, I have perused the record of the case and I have reasoned out with the learned Senior Advocate appearing for the Society that in today's times installation of the house lift has become more than a necessity rather than the age old definition of the lift relating to luxury.

Though I am not going in to the reasons as to why private Respondent seeks installation of house lift, but what is of paramount consideration and importance is the fact that when such applications are received, the primary issue which needs consideration is to ensure the stability of the structure so as not to hamper the building structure. This Court may not be an expert technically on stability, but in that case Court will have to rely on the opinion of experts. Here before me are two expert opinions.

6. It is argued by Mr. Kumbhakoni that the dent in the slab area between the 33rd and 34th floor would be to the extent of 0.19% of the total floor slab area. However, be that as it may, that cannot be taken on face value. What is crucial is whether structural stability of the structure would allow installation or otherwise. Since there is already existence of house lifts in some flats, it is informed to me that they were so installed since inception. In the present case most importantly the factor is that the Corporation has granted permission to the member for installation which is also appended to the Petition. The Corporation is the Planning Authority. The Society ought to have therefore taken a considered decision.

7. Taking an overall view of the matter, I request the Society to consider their decision.

8. List the matter on Board on **12th September 2025** for passing further orders subject to hearing Mr. Damle on his objections. To be treated as '**Part-Heard**'.

[MILIND N. JADHAV, J.]

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