

Shabnoor

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

WRIT PETITION NO.14955 OF 2024

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M/s Yashodeep Construction Company

Through Its Partner

Vijay Jawaharlal Jain

... Petitioner

V/s.

Matruchaya Cooperative Housing

Society Ltd. Through

Its Chairman Popatlal C. Bagmar

... Respondent

Mr. Shrivallabh S. Panchpor a/w Pratibha Gavhane,
Apeksha Jadhav, for the petitioner.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 26, 2025

P.C.:

1. **Rule.** Rule is made returnable forthwith.
2. By this petition filed under Article 227 of the Constitution of India, the petitioner has challenged the legality of the judgment and order dated 23 September 2024, passed in Revision Application No. 54 of 2024 by the Cooperative Appellate Court. By the said order, the Appellate Court rejected the petitioner's applications at Exhibits 150 and 152, through which the petitioner had sought permission to place additional documents on record and to lead further evidence.
3. The dispute, as originally filed by the petitioner before the Cooperative Court, seeks a declaration that the respondent-society

is not entitled to dispossess him from his property being Plot No. 42. The petitioner claims that he is a member of the society and is in lawful occupation of the said plot.

4. The society filed a written statement opposing the claim of the petitioner. The society specifically denied that the petitioner is its member and contended that, in absence of membership, the petitioner cannot claim the relief of protection against dispossession. On the basis of these rival pleadings, the Cooperative Court framed issues. Among them, Issue No. 3 directly dealt with the core question, namely, whether the petitioner is a member of the society.

5. During the course of trial, the petitioner led evidence in support of his claim. Thereafter, the society chose not to lead any oral evidence and submitted a pursis to that effect. The matter then proceeded for arguments. At this stage, the petitioner filed applications at Exhibits 150 and 152 to produce further documents and to adduce additional evidence. The Cooperative Court considered the matter and allowed both the applications. However, when the order was challenged before the Cooperative Appellate Court in revision, the Revisional Court set aside the order and rejected the applications filed by the petitioner.

6. This Court, while considering the present petition, issued notice to respondent No.1. The office record indicates that the notice has been duly served. Despite service, none has chosen to appear on behalf of the society.

7. On perusal of the applications and the documents which the petitioner desired to bring on record, it is clear that the said documents are directly relevant to Issue No. 3, which concerns the question of membership. The documents consist of notices issued to the petitioner by the society and other correspondence, which, prima facie, show that the society treated him as a member. Once such documents have a bearing on the determination of the real issue between the parties, their production cannot be denied. The dispute itself is instituted by the petitioner. Therefore, pendency of the dispute cannot be taken as a ground to curtail his right to substantiate his claim, particularly when the society, despite having opportunity, has failed to lead any evidence in rebuttal. In such circumstances, the contention that the petitioner is attempting to fill up lacunae does not hold merit. Where one party has chosen not to enter evidence, the other party's attempt to bring on record relevant material cannot be termed as filling of lacunae.

8. The Supreme Court in the case of *Sangram Singh vs. Election Tribunal*, AIR 1955 SC 425, has laid down that the rules of procedure are meant to advance the cause of justice. Procedural provisions are handmaids of justice and not its mistress. They cannot be allowed to defeat substantive rights. What the Court must ensure is that technical rules do not override the legitimate claim of a party when relevant material has a direct nexus to the issue in controversy. Applying this principle, the Trial Court rightly permitted the petitioner to produce the documents which go to the root of the dispute regarding membership.

9. The Cooperative Appellate Court, in exercise of its revisional jurisdiction, was not justified in interfering with such a discretionary and well-reasoned order of the Trial Court. Its approach overlooked the relevance of the documents and the settled principle that technicalities should not obstruct justice. The rejection of the applications by the Revisional Court therefore cannot be sustained.

10. For these reasons, the petition deserves to succeed. The judgment and order dated 23 September 2024 passed by the Cooperative Appellate Court in Revision Application No. 54 of 2024 is quashed and set aside. The order of the Cooperative Court allowing Exhibits 150 and 152 stands restored. Rule is made absolute in terms of prayer clause (b).

11. The Writ Petition stands disposed of. No costs.

(AMIT BORKAR, J.)