Ashish

ASHISH SAHEBRAO MHASKE
Digitally signed by ASHISH SAHEBRAO MHASKE
Date: 2025.09.19 18:19:05 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14996 OF 2024
WITH
WRIT PETITION NO.16514 OF 2024
WITH
WRIT PETITION NO.16515 OF 2024
WITH
WRIT PETITION NO.16517 OF 2024

Saraf Kaskar Industrial Premises Cooperative Society Ltd … Petitioner

V/s.

The District Deputy Registrar Cooperative Societies and anr … Respondents

Mr. Nikhil Dongre a/w Mr. Omkar Kudale, for the Petitioners.

Sr. Advocate Atul Damle, a/w Mr. Chirag Dave, Mr. Shubham Kalbere i/b Legasis Partners for respondent no.3.

Mr. V.R. Raje, AGP for State, in WP No. 14996 of 2024, WP No. 16514 of 2024.

Mr. P.V. Nelson Rajan, AGP for State, in WP No. 16515 of 2024.

Ms. Sulbha Chipade, AGP for State in WP No.16517 fo 2024.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 19, 2025

P.C.:

1. The present petition challenges the order passed by the Deputy Registrar under Section 154B-29 of the Maharashtra Co-operative Societies Act, 1960. By the said order, the Deputy

Registrar rejected the application filed by the Industrial Premises Co-operative Housing Society for recovery of maintenance charges. The authority held that the matter raised complicated questions of law and fact, and therefore, the proper remedy available to the Society was to file a dispute under Section 91 of the Act.

2. From the reasons recorded in the impugned order, it is clear that the authority formed an opinion that certain payments said to have been made earlier by the members were not reflected in the Society's accounts.

3. The authority also noted that though the Society had treated the members as defaulters from the year 1982, no prompt steps for recovery of the dues were taken, and no explanation was offered for this delay. Further, from the documents produced by the Society, the exact amount recoverable could not be determined with certainty. The authority ultimately held that issues such as whether arrears of maintenance exist from the year 1982, whether the amount claimed is disputed, and whether there is any challenge to the resolution of the Society, are matters that cannot be decided in summary proceedings under Section 154B-29 of the Act. It was thus concluded that the proper course for the Industrial Premises Co-operative Housing Society is to seek remedy before the Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

4. It is not in dispute that both parties are governed by Section 154B-29 of the Maharashtra Co-operative Societies Act. This provision was inserted by Maharashtra Amendment Act 23 of

2019, in substitution of the earlier Section 101 of the Act, which had provided for summary adjudication of Society's dues. By insertion of Chapter XIII-B, Section 154B-29 has been enacted to empower the Registrar with a mechanism to recover sums and arrears due to Housing Societies, treating them in the same manner as arrears of land revenue. The provision opens with a non-obstante clause, making it clear that, notwithstanding anything contained in Section 91 of the Act, a Housing Society can apply for recovery of its dues, including maintenance, repair charges, or other charges prescribed therein, by producing a statement of accounts and such documents as are prescribed. The Registrar is, therefore, vested with authority to hold a summary enquiry and, after giving an opportunity of hearing to the member concerned, issue a certificate for recovery.

5. The nature of the material placed before the Registrar under Section 154B-29 has to be viewed in the context of the summary character of the proceedings. The law does not envisage a full-scale trial or examination of oral evidence. The parties are not entitled to lead witnesses or conduct cross-examination. The Registrar is required to consider only the documents placed on record. These may include the statement of accounts maintained by the Society in the ordinary course of its business, resolutions passed in meetings, receipts, and such other documents as the Rules require the Society to maintain. On the basis of these documents, and after giving a fair opportunity of hearing, the Registrar has to adjudicate the quantum of dues claimed by the Housing Society.

6. In such proceedings, the scope of enquiry is limited. The authority has to verify, from the accounts and documents, whether the claim of arrears is borne out by records and whether any part of the claim has been satisfied by payments reflected in the member's documents. The questions are confined to verification of the amount due or adjustment of payments, which are essentially matters of accounting. The legislative intent of providing a summary remedy would be frustrated if every dispute regarding arrears is treated as involving complicated questions of law and fact. Such an approach would render the special provision under Section 154B-29 redundant, compelling Societies to approach the Co-operative Court under Section 91 in every case.

7. In my considered view, therefore, the authority under the Act cannot shirk its statutory responsibility to adjudicate the quantum of dues under Section 154B-29 by resorting to a general observation that the matter involves complicated questions of law and fact. The jurisdiction entrusted to the Registrar is meant to provide a speedy and effective mechanism for Housing Societies to recover their legitimate dues. Unless the dispute involves issues that clearly travel beyond the scope of summary enquiry, the Registrar is bound to apply his mind to the documents on record and arrive at a finding on the arrears claimed by the Society.

8. The Registrar, while exercising powers under Section 154B-29 of the Maharashtra Co-operative Societies Act, is not expected to conduct a full-fledged trial like a Co-operative Court. At the same time, the Registrar cannot act mechanically. He is duty-bound to apply his mind to the claim put forward by the Society and the

defence raised by the members. The law requires him to examine whether, on the basis of documents produced, the Society has at least prima facie established its claim.

9. This means that the Registrar has to scrutinise the accounts, receipts, and resolutions of the Society. He must verify whether the amount claimed is supported by reliable records. He must also consider whether the members have produced any material showing that payments made by them have not been credited or that the calculation of dues is doubtful. The Registrar's role is to strike a balance. He cannot ignore genuine objections raised by members, but he also cannot permit the recovery machinery to be stalled by frivolous or vague objections.

10. If the documents clearly establish the existence of arrears, the Registrar may issue recovery certificates. However, where the accounts are incomplete, where earlier payments are not reflected, or where there is serious doubt about the accuracy of the claim, the Registrar must refrain from issuing recovery certificates until claim of the parties is established to the satisfaction of Registrar.

11. In my considered view, therefore, the application filed by the Petitioner Society could not have been dismissed merely on the ground that it involves complicated questions of law and fact. The very object of Section 154B-29 is to provide a summary remedy to Housing Societies for recovery of their legitimate dues. The Registrar is empowered to examine the statement of accounts and supporting documents, hear the defence of the members, and determine whether arrears are due. The authority cannot decline

jurisdiction by adopting a broad and vague reasoning of complexity when the statute itself mandates adjudication in a summary manner on the basis of records.

12. For these reasons, the impugned orders cannot be sustained in law. The orders are accordingly set aside. The proceedings initiated by the Petitioner Society are restored to the file of the Deputy Registrar of Co-operative Societies, K-West Ward, Mumbai. The Deputy Registrar shall grant adequate opportunity to both parties to file documents in support of their respective claims and defences. After giving fair hearing to both sides, the Deputy Registrar shall apply his mind to the material on record and record a clear finding regarding the quantum of amount payable, if any, by the members.

13. The parties shall remain present before the Deputy Registrar on 29 September 2025 at 10.30 a.m. The Deputy Registrar shall proceed with the matter from that date and shall dispose of the proceedings within a period of three months from the date of appearance of the parties.

14. It is clarified that all contentions of both parties on merits are expressly kept open. The Deputy Registrar shall decide the matter strictly in accordance with law without being influenced by any observations made in this judgment.

15. In view of the above directions, all writ petitions stand disposed of.

(AMIT BORKAR, J.)