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

WRIT PETITION NO.17438 OF 2024

Sushila Subhash Gawde & Ors.	... Petitioners
V/s.	
State of Maharashtra & Ors.	... Respondents

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Ms. Bhagyashree R. Mangale for the petitioners.

Mr. Y.D. Patil, AGP for respondent Nos.1 & 4 to 6-State.

Mr. Dilip Bodake for respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 11, 2025

P.C.:

1. The present writ petition questions the correctness of an order passed by the revisional authority under Section 154 of the Maharashtra Cooperative Societies Act, 1960. The revisional authority dismissed the revision application solely on the ground that the petitioners had not complied with the requirement of Section 154(2A). The issue is whether such dismissal, based only on a procedural ground, is sustainable when the very foundation of the proceedings under Section 101 is alleged to be void.

2. The record makes one fact clear. Original opponent No.1, who was the predecessor in title of petitioner Nos.1 to 3, passed away in 2017. The Bank was aware of this fact in 2017 itself. Despite this knowledge, the proceedings under Section 101 continued without bringing his legal representatives on record.

The statutory scheme recognises that adjudication of liability must be against a living person or against the legal representatives of a deceased borrower. Proceeding against a dead person goes to the very competence of the authority. When a party is dead and his legal representatives are not impleaded, the proceeding suffers from a defect that affects jurisdiction. Any certificate issued on such an erroneous foundation is a nullity in law. The certificate dated 3 February 2021, issued against petitioner Nos.1 to 3, suffers from exactly such a defect.

3. Once the certificate is treated as a nullity, the law gives an aggrieved person the right to question it at any stage. Jurisdictional errors do not get sanctified by lapse of time. Courts have repeatedly held that limitation does not bar a challenge to an order which is void from its inception. The principle rests on a simple foundation. A null order creates no rights.

4. The case of petitioner No.4 stands on a different footing. He was opponent No.2 in the original proceedings. The certificate issued against him was not as a legal representative of deceased opponent No.1. It was issued against him in his independent capacity as a co borrower. The challenge raised by petitioner No.4 pertains only to the dismissal of his revision for non compliance with Section 154(2A). No foundational jurisdictional defect is shown in his case. Therefore, interference with the order dismissing the revision at his instance is not warranted.

5. In view of the above findings, the following order is required.

- a) The certificate dated 3 February 2021 issued under Section 101 of the MCS Act stands quashed and set aside as against petitioner Nos.1 to 3.
 - b) The Deputy Registrar, Cooperative Societies, shall re adjudicate the liability of petitioner Nos.1 to 3. He shall grant due opportunity of hearing to all concerned and pass a reasoned order.
 - c) Petitioner Nos.1 to 3 shall appear before the Deputy Registrar on 22 December 2025 at 10.30 a.m.
 - d) No fresh notice is required to be issued. The parties shall act on this order.
 - e) The Deputy Registrar shall decide the liability of petitioner Nos.1 to 3 within eight weeks from the date of their appearance.
6. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)