

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1622 OF 2025

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Ramashankar Budhai Yadav

... Petitioner

V/s.

Kamla Ramashrey Yadav & Ors.

... Respondents

Mr. S. P. Shrivastava for the petitioner.

Mr. Nitin Parkhe with Ms. Shivani Kumari for
respondent No.1.

Ms. S. A. Prabhune, AGP for the State-respondent
Nos.2 and 3.

Mr. Anand Khairnar i/by Ms. Komal Punjabi for
respondent No.4-BMC.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 4, 2025

P.C.:

1. The writ petition assails the validity and legality of the order passed by the Apex Grievance Redressal Committee (AGRC), whereby the competent authority was directed to incorporate the name of Respondent No.1 (husband) at Serial No.20 of Annexure-II pertaining to Seewree Koliwada Cooperative Housing Society, jointly with Respondent No.5. The gravamen of the challenge rests on the alleged jurisdictional overreach, misappreciation of evidence, and contravention of statutory provisions governing membership rights under the Maharashtra Cooperative Societies Act, 1960, and the Bye-laws of the Society. It is contended that the

AGRC exceeded its authority by disregarding the petitioner's exclusive entitlement to the premises in question.

2. The AGRC, in its appellate jurisdiction upheld the inclusion of Respondent No.1's name by placing reliance on the voter list of 1995, which unequivocally reflects Respondent No.1's residence at the subject premises as of 1 January 2000. This finding is further fortified by the survey conducted during 2011–12 under the aegis of the competent authority, which corroborated Respondent No.1's continuous physical possession and occupation of the premises. The AGRC rightly relied on the documentary evidence on record—being public documents under Section 74 of the Indian Evidence Act, 1872—conclusively established Respondent No.1's lawful residency. The Committee's adherence to the presumption of regularity attached to official records, as enshrined in Section 114(e) of the Evidence Act, cannot be faulted as arbitrary or perverse.

3. Crucially, the consent terms, executed between the petitioner and Respondent No.1 before the Civil Court, unequivocally stipulate that both parties agreed to file a joint application for the inclusion of their names in the records of the Society. These consent terms, solemnized under Order XXIII Rule 3 of the Code of Civil Procedure, 1908, and duly ratified by the Court, operate as a legally enforceable contract between the parties. The doctrine of estoppel by conduct under Section 115 of the Evidence Act further precludes the petitioner from resiling from his unequivocal undertaking to effectuate joint membership. The AGRC, in aligning its findings with this judicial record, cannot be said to have

committed a jurisdictional error warranting interference under Article 226 of the Constitution.

4. In view of the cogent evidentiary foundation underpinning the AGRC's order and the binding sanctity of the consent decree, this Court finds no infirmity in the impugned order. The petitioner's attempt to unilaterally derogate from her own solemn commitments, absent any demonstrated violation of natural justice, jurisdictional error, or patent illegality, is untenable in law. The writ petition, being devoid of substantive merits, is accordingly dismissed. No order as to costs.

(AMIT BORKAR, J.)