

VRJ

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

WRIT PETITION NO.1833 OF 2025

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Jeetu Rajeshwar Kotpalliwar & Ors. ... Petitioners

V/s.

Ujjwal Nandadeep CHS Ltd. & Ors. ... Respondents

Mr. Amit Saple with Ms. Priyanka Kumar and Mr. Chinmay Apte for the petitioners.

Mr. Nilkant Bhadrashette i/by Dinesh Rane for respondent Nos.1 to 4.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 12, 2025

P.C.:

1. **Rule.** Rule is made returnable forthwith.
2. The present writ petition challenges the orders passed by the Cooperative Court and the Appellate Court allowing the application filed by the respondents under Order VII Rule 11 Clauses (a) and (d) of the Civil Procedure Code, 1908.
3. The Courts below have dismissed the dispute on the ground that the general body resolution—the subject matter of the challenge—appoints a developer and a member, and that redevelopment, by its very nature, cannot be adjudicated as a dispute between the member and the society. However, upon a careful perusal of the prayers set forth in the writ petition and the specific challenge raised, particularly with regard to the alleged lack of coram at the general body meeting, it is apparent that the

dispute squarely involves the validity of the resolution. Consequently, this constitutes a bona fide dispute between the member and the society, falling strictly within the exclusive purview of the Cooperative Court under Section 91.

4. At this stage, the learned counsel for the respondents has submitted that, in execution of the resolution, the building has been demolished and the developer has commenced functioning. This development is significant and will be taken into consideration when addressing any application for interim relief at a later stage. Notwithstanding, for the purpose of deciding the present application under Order VII Rule 11 of the Civil Procedure Code, 1908, the inquiry is necessarily confined to determining whether the dispute discloses a cause of action and whether the statements made therein are barred by any law.

5. As indicated earlier, one of the principal grounds for filing the dispute is the alleged lack of quorum in the general body meeting that adopted the resolution for the appointment of the developer. Given that the validity of the resolution forms a central issue of the dispute, the lower Courts were not justified in dismissing the matter under Order VII Rule 11 of the Civil Procedure Code, 1908. In light of the foregoing, it is ordered that the writ petition be allowed, and the matter be remanded to the Cooperative Court for a detailed adjudication on the merits.

6. The rule is made absolute in terms of prayer clause (a).

(AMIT BORKAR, J.)