

VRJ

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

WRIT PETITION NO.2758 OF 2025

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2025.03.20
18:45:51 +0530

Naman Midtown “A” Wing Premises
Cooperative Society Ltd. Through
Secretary, Mansukh Khimji Savla ... Petitioner

V/s.

The State of Maharashtra,
Through the Secretary, Department of
Co-operation, Marketing and Textiles &
Ors. ... Respondents

Mr. Kishor Patil i/by Mr. Jaydeep Deo for the petitioner.

Mr. O. A. Chandurkar, Addl. G. P. with Ms. V. R. Raje,
AGP for the State-respondent Nos.1 and 2.

Ms. Geeta R. Shasta for respondent No.3.

Ms. Sonali Mehta with Ms. Abha Gokhale i/by Desai &
Diwanji for respondent No.4.

CORAM : AMIT BORKAR, J.

DATED : MARCH 20, 2025

P.C.:

1. Arguable questions are raised. Hence, **Rule.**
2. Prima facie, it appears that the Assistant Registrar, Cooperative Society, has exercised jurisdiction under Section 154B-27(3) of the Maharashtra Cooperative Societies Act, 1960, in entertaining an application preferred by a developer who is admittedly not a member of the cooperative society. The statutory

scheme of the Maharashtra Cooperative Societies Act, 1960, as amended, clearly delineates the scope and authority of the Registrar and his subordinates, ensuring that jurisdiction is exercised only in accordance with law.

3. The language of Section 154B-27(3) does not, on a plain reading, empower the Assistant Registrar to grant relief in favor of a third party who does not hold membership in the cooperative society. The legislative intent behind the said provision is to protect the rights and interests of the members of the cooperative society and not to confer locus standi upon external entities such as developers, who have no direct statutory claim within the cooperative framework. It is a settled principle of law that statutory authorities must function within the confines of their jurisdiction, and any order passed in excess of jurisdiction is rendered without authority of law and is liable to be set aside.

4. Moreover, the relief granted by the Assistant Registrar by order dated 26th July 2024 is ex facie beyond the permissible scope of Section 154B-27(3). The power under the said provision is circumscribed and does not vest the Assistant Registrar with the authority to adjudicate disputes between a society and a third party. Granting such relief without statutory sanction amounts to an overreach of jurisdiction, rendering the order susceptible to judicial review under Article 226 of the Constitution of India.

5. In *Whirlpool Corporation v. Registrar of Trademarks, Mumbai*, (1998) 8 SCC 1, the Hon'ble Supreme Court reiterated that an order passed by an authority lacking jurisdiction is

amenable to judicial intervention at the interlocutory stage itself, particularly where the principles of natural justice are breached, or where an order is patently illegal.

6. Considering the prima facie infirmities in the impugned order and the apparent excess of jurisdiction exercised by the Assistant Registrar, the petitioner has successfully demonstrated a strong prima facie case warranting interim protection. If interim relief is not granted, the petitioner would suffer irreparable loss and injury, particularly as the impugned order appears to confer an undue advantage upon a third party who has no legally enforceable right under the Act. The balance of convenience also tilts in favor of the petitioner, as granting interim relief would merely preserve the status quo and prevent further complications arising from an order passed without jurisdiction.

7. In view of the above, a case for grant of interim relief is clearly made out.

8. Hence, there shall be interim relief in terms of prayer clause (c).

(AMIT BORKAR, J.)