

Satish Sangar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3361 OF 2025

WITH

INTERIM APPLICATION NO.10622 OF 2025

SATISH
RAMCHANDRA
SANGAR

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SATISH RAMCHANDRA
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1. Mr.Alvito Carvalho,
Age : 42 Years, Occupation : Business,
Resident of Flat No.06, Building No.15,
Ashirwad Co-operative Housing Society Ltd., ...Petitioner/
Sector 09, Vashi, Navi Mumbai : 400703. Applicant

Versus

1. The Deputy Registrar, Co-operative Societies,
CIDCO, Office at City and Industrial
Development Corporation, Belapur Railway
Station Complex, Tower No.8, 5th Floor, CBD
Belapur, Navi Mumbai : 400614.
2. Mr.Swapnil Newale,
Secretary – Ashirwad Co-operative Housing
Society Ltd., Building Nos.14 to 23, Sector 09,
Vashi, Navi Mumbai : 400703.
3. All Eight Members of the Managing
Committee, As listed in the 7th July 2024
AGM Annual Report, Representing the
Managing Committee of Ashirwad
Co-operative Housing Society Ltd., Building
Nos.14 to 23, Sector 09, Vashi, Navi Mumbai.
[Deleted as per order dated 20th June 2025].
- 3A. Mr.Narendra Jadhav,
Ashirwad Co-operative Housing Society Ltd.,
Building No.17, Flat No.16, Plot No.14 to 23,
Sector 09, Vashi, Navi Mumbai : 400703.
- 3B. Mr.Vinayak Nagarkar,
Ashirwad Co-operative Housing Society Ltd.,
Building No.23, Flat No.01, Plot No.14 to 23,
Sector 09, Vashi, Navi Mumbai : 400703.

3C. Mr.Mohan Sawant,
Ashirwad Co-operative Housing Society Ltd.,
Building No.22, Flat No.12, Plot No.14 to 23,
Sector 09, Vashi, Navi Mumbai : 400703.

3D. Mr.S. Chandramohan,
Ashirwad Co-operative Housing Society Ltd.,
Building No.23, Flat No.10, Plot No.14 to 23,
Sector 09, Vashi, Navi Mumbai : 400703.

3E. Mr.Gautam Pathare,
Ashirwad Co-operative Housing Society Ltd.,
Building No.16, Flat No.07, Plot No.14 to 23,
Sector 09, Vashi, Navi Mumbai : 400703.

3F. Mr.Freddy F. Patrick,
Ashirwad Co-operative Housing Society Ltd.,
Building No.14, Flat No.13, Plot No.14 to 23,
Sector 09, Vashi, Navi Mumbai : 400703.

3G. Mr.Gopal Chunekar,
Ashirwad Co-operative Housing Society Ltd.,
Building No.23, Flat No.16, Plot No.14 to 23,
Sector 09, Vashi, Navi Mumbai : 400703.

...Respondents

Mr.Sharad R. Dhore, Advocate for Petitioner.
Ms.Reena A. Salunkhe, AGP, for Respondent No.1 – State.
Mr.Prafull J. Sagalgile, Advocate for Respondent No.2.

**CORAM: SUMAN SHYAM &
S. M. MODAK, JJ.**

DATED: 14th NOVEMBER 2025.

JUDGMENT : (PER : S. M. MODAK, J.)

1. Heard learned Advocate for the Petitioners and learned AGP
for the Respondent No.1.

2. There is a prayer for issuing *Mandamus* to the Deputy Registrar to investigate the financial and procedural violations committed by the Managing Committee of Ashirwad Co-operative Housing Society Ltd. There is further *Mandamus* to comply with the provisions of Section 154B-8 and 154B-29 of the Maharashtra Co-operative Societies Act, 1960 (“**MCS Act**”). There are also other prayers. Prior to filing the Petition, the present Petitioner who is a member of the Society has made a lot of correspondence with the Chairman of the Society including correspondence issued on 28th June 2024 and also to the Deputy Registrar on 31st July 2024, 18th October 2024.

3. The Deputy Registrar as per his letter dated 29th August 2024 addressed to the Chairman of the Society has called for explanation in respect of certain statutory obligations pertaining to maintenance of account; not preparing the audit-report and so on. Finally, the Deputy Registrar vide his letter dated 7th November 2024 informed to the Petitioner to take recourse to the Competent Court of law. It is on account of the fact that the complaint pertains to the audit-report for the financial year 2023 and 2024 whereas the Society was registered on 14th May 2024. The Deputy Registrar had further informed the Petitioner that he has no authority to take

any action because the grievance pertains to the period prior to the registration of the Society.

4. On this background, this Petition is filed.

5. The Deputy Registrar / Respondent No.1 has filed an Affidavit-in-Reply. He has contended that prior to registration of the Society, the occupants of the building Nos.14 to 23 were registered as Apartment Owners Association as per the provisions of the Maharashtra Apartment Ownership Act, 1970 (“**MAO Act**”). His further contention is that when the complaint was made to him, as a regular procedure, he had issued a letter dated 29th August 2024 to the Chairman of the Society thereby calling for explanation. There is also a reminder to that. However, he realised that the complaint pertains to the irregularities for the period prior to the formation of the Society. That is why, he came to the conclusion that he is not having jurisdiction to take cognizance of the complaint.

6. There is rejoinder filed by the Petitioner. According to him, the remedy under Section 91 of the MCS Act cannot be an alternate remedy to the Petition under Article 226 of the Constitution. According to him, when the Deputy Registrar has called for the explanation twice and later on he has taken U-turn, it amounts to arbitrariness and violates his rights under Article 14 of the Constitution. After formation of the Society, all assets, liabilities and

records of the earlier Association are transferred to the Society and as such, the Registrar is having supervisory jurisdiction under Sections 79, 81 and 83 of the MCS Act. He has annexed copy of the Government Resolution dated 4th July 2019 issued by the Department of Co-operation, Textiles and Marketing. It pertains to the redevelopment of the buildings belonging to the Co-operative Housing Societies.

7. It is true, an Apartment, as a legal entity and the Co-operative Society as a legal entity are different. They are governed by separate Acts. Ultimately, it is the choice of the purchasers of the units whether to form an Apartment or a Co-operative Housing Society. The Court is not having any supervision over the decision taken by the unit purchasers. It is true, the Authorities as per the provisions of MCS Act, may not come into picture when there is Apartment. The bye-laws which are referred to by the Petitioner talk about the first general meeting conducted after formation of the Society. It does not refer to the meeting conducted for conversion of Apartment into Co-operative Housing Society. In fact, the building was constructed in the year 1985 and already 38 years have lapsed. That is why the Petitioner has prayed for structural audit.

8. Be that it may, the first Annual General Meeting was conducted on 7th July 2024. On this background, it is difficult to

comprehend that this Court can issue directions as sought for. It involves disputed questions of facts which cannot be inquired into in a Writ Petition. Best course available to the Petitioner is to approach the Competent Court of law. Though learned Advocate for the Petitioner tried his level best to convince us to entertain the Petition, we are not impressed. Learned AGP is right in submitting that these questions can be inquired into by the Competent Court instead of Writ Court.

9. Consequently, the Writ Petition is dismissed.
10. Pending Interim Applications also stand disposed of.

(S. M. MODAK, J.)

(SUMAN SHYAM, J.)