

VRJ

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

**WRIT PETITION NO.4080 OF 2025
WITH
WRIT PETITION NO.4081 OF 2025
WITH
WRIT PETITION NO.4082 OF 2025
WITH
WRIT PETITION NO.4083 OF 2025**

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Abdul Hameed Sayyed Ali Ansari
Prop. M/s Al Halal Foods ... Petitioner

V/s.

Deputy Registrar, Co-operative Societies,
Thane Taluka & Anr. ... Respondents

Mr. Puneet Gogad with Komal Gogad, Yogesh K.
Deshpande and Mahesh Karule for the petitioner.

Mr. Brian D'Lima for respondent No.2 in all petitions
(through V.C.).

Ms. S. S. Bhende, AGP for the State-respondent No.1 in
WP/4080/2025.

Ms. Madhubala Kajale, 'B' Panel advocate for the State-
respondent No.1 in WP/4081/2025 and
WP/4083/2025.

Mr. J. P. Patil, AGP for the State-respondent No.1 in
WP/4082/2025.

CORAM : AMIT BORKAR, J.

DATED : MARCH 24, 2025

P.C.:

1. Challenge in these writ petitions is to the legality and
validity of an order passed by the Assistant Registrar, Cooperative

Societies, in proceedings initiated under Section 101 of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as “the MCS Act”). By the said order, the objection raised by the petitioner to the continuance of the proceedings under the provisions of the MCS Act has been rejected. The petitioner contends that the proceedings initiated under Section 101 of the MCS Act are not maintainable in view of the protection allegedly available to him under the provisions of the Insolvency and Bankruptcy Code, 2016 (“IBC”), and particularly under Section 96 thereof. It is the specific grievance of the petitioner that the authority exercising powers under the MCS Act has failed to appreciate that the initiation and continuation of recovery proceedings under Section 101 of the MCS Act is impermissible during the pendency of a valid moratorium under the IBC.

2. In support of the contention that the impugned order is vitiated for want of jurisdiction, reliance has been placed on the decisions of the Hon’ble Supreme Court in *T.C. Basappa v. T. Nagappa & Another*, (1954) 1 SCR 580 and *Dilip B. Jiwrajka v. Union of India & Ors.*, 2023 SCC OnLine SC 1530. In *T.C. Basappa* (supra), the Hon’ble Supreme Court emphasized that a writ of certiorari may be issued not only when there is an error apparent on the face of the record but also where the authority has acted in excess or lack of jurisdiction. It is, therefore, the submission of the petitioner that once the authority under the MCS Act was confronted with a plea of statutory moratorium under Section 96 of the IBC, it ought to have examined whether it could proceed further with the recovery under Section 101. It is urged that failure

to even consider the applicability of the IBC, while rejecting the petitioner's objection, renders the impugned order wholly unsustainable in law.

3. I have given my thoughtful consideration to the rival submissions advanced at the Bar. A perusal of the record reveals that the order impugned in the present writ petition is in the nature of an *interlocutory order*, passed during the pendency of proceedings under Section 101 of the MCS Act. It is well settled that interlocutory or procedural orders passed by statutory tribunals or quasi-judicial authorities do not normally invite interference under the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, unless such orders are *ex facie* without jurisdiction or have resulted in manifest injustice. Ordinarily, a writ will not be entertained against a show cause notice or an interim or procedural order unless such action results in clear violation of principles of natural justice or causes grave and irreparable prejudice.

4. In the present case, no final order under Section 101 of the MCS Act has yet been passed. The question whether the petitioner is entitled to the benefit of moratorium under Section 96 of the IBC, and whether such statutory protection overrides the recovery mechanism contemplated under Section 101 of the MCS Act, are all matters which can appropriately be urged before the competent authority at the time of final adjudication of the claim under Section 101. In the event an adverse final order is passed, it shall always remain open to the petitioner to raise all contentions, including the bar under the IBC, before the revisional authority

under Section 154 of the MCS Act. The law contemplates a statutory hierarchy of remedies, and at this stage, it would be premature and inappropriate to invoke writ jurisdiction merely on account of an interim order passed during the pendency of the proceedings.

5. In view of the aforesaid discussion, I do not find any merit in the writ petition. The petition is, accordingly, dismissed. No order as to costs.

6. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)