

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4701 OF 2025

Sea Star Co-operative Housing Society Limited ... Petitioner
Vs.
Deepak Jagiasibawa and others ... Respondents

WITH
WRIT PETITION NO.4877 OF 2025

Sea Star Co-operative Housing Society Limited ... Petitioner
Vs.
Sanjay P. Vora and others ... Respondents

WITH
WRIT PETITION NO.4835 OF 2025

Sea Star Co-operative Housing Society Limited ... Petitioner
Vs.
Kajal Shah and others ... Respondents

Mr. Mayur Khandeparkar a/w. Mr. Rutuparn Umesh Deo i/b. Mr. Aditya Lele for Petitioner in WP/4877/2025.

Mr. Aditya Lele a/w. Mr. Rutuparn Umesh Deo for Petitioner in WP/4835/2025 and WP/4701/2025.

Mr. Arshad Shaikh, Senior Advocate a/w. Ms. Namrata Agashe, Mr. Rajendra Jain, Mr. Pranil Lahigade and Mr. Aniket Pardeshi i/b. Vinsha S. Acharya for Respondent Nos.1 and 2 in WP/4701/2025.

Ms. Gargi Bhagwat i/b. M/s. Divekar Bhagwat and Co. for Respondent No.1 in WP/4877/2025 and WP/4835/2025.

Mr. Ketan Joshi, B Panel Counsel for Respondent Nos.3 and 4-State.

CORAM : MANISH PITALE, J.
DATE : JUNE 26, 2025

P.C. :

. Heard learned counsel for the petitioner society in these petitions as also the learned counsel appearing for the private respondents whose membership in the society is the subject matter of dispute between the parties.

2. The petitioner society moved applications under Section 154B-9

of the Maharashtra Co-operative Societies Act, 1960 for removal of the contesting private respondents as members of the society. The said applications were rejected by orders dated 03/04.10.2024 passed by the Deputy Registrar of Co-operative Societies. Aggrieved by the same, the petitioner society filed appeals before the Divisional Joint Registrar of Co-operative Societies. The appeals also stood dismissed. There is no dispute about the fact that an alternative remedy of filing a revision before the State is available to the petitioner society under Section 154 of the aforesaid Act.

3. The learned counsel appearing for the petitioner society relied upon the judgement of the Full Bench of this Court in the case of *Shireen Sami Gadiali and another Vs. Spenta Co-op. Hsg. Soc. Ltd. and others*, **2011 SCC OnLine Bom 522** and the judgement of the Supreme Court in the case of *Godrej Sara Lee Ltd. Vs. Excise and Taxation Officer-cum-Assessing Authority and others*, **2023 SCC OnLine SC 95**. It was submitted that the principles laid down in the said judgements, which leave a narrow scope for entertaining writ petitions despite availability of alternative remedy, are applicable in the facts of the present case, and therefore, this Court may consider entertaining the present writ petitions.

4. The learned counsel appearing for the contesting private respondents vehemently opposed the said contention and it is submitted that the petitioner society ought to exhaust the statutory alternative remedy.

5. This Court has considered the rival submissions. It is a settled position of law in terms of the principles recognized in the aforementioned judgements that there is indeed a distinction between maintainability of the writ petition and its entertainability. This aspect has been highlighted in the aforesaid judgement of the Supreme Court in

the case of **Godrej Sara Lee Ltd. Vs. Excise and Taxation Officer-cum-Assessing Authority and others** (*supra*). To that extent, the learned counsel appearing for the petitioner society is justified in contending that there cannot be blanket proposition that in the face of alternative remedy being available, writ petition can never be maintained before the High Court. There is indeed a narrow window available and the Court, while exercising jurisdiction under Article 226 / 227 of the Constitution of India, is expected to examine the entertainability of a writ petition despite availability of alternative remedy.

6. In that context, an endeavour was made on behalf of the petitioner society to contend that pure question of law arises from interpretation of Section 154B-9 of the said Act, which pertains to removal of a member.

7. This Court has considered the material on record, only for examining the aforesaid aspect of the matter. This Court is of the opinion that the tenor of the impugned orders indicates that a factual enquiry was also necessarily undertaken leading to findings rendered against the petitioner society. Any grievance in that regard can properly be agitated in a revision application that can be filed under Section 154 of the aforesaid Act. These cases do not qualify as being covered in the narrow scope available with regard to the entertainability of writ petition in the face of a statutory alternative remedy. This Court is of the opinion that the petitioner society can very well air its grievances in properly instituted revision applications under Section 154 of the said Act.

8. In view of the above, this Court declines to entertain these writ petitions, reserving liberty for the petitioner society to exhaust the alternative remedy.

9. Writ petitions are disposed of.

10. If the petitioner society approaches the revisional authority to exhaust the alternative remedy, the said authority would consider as to whether the time spent in pursuing the present writ petitions can be taken into consideration while deciding the question of condoning delay, in accordance with law.

(MANISH PITALE, J.)

Minal Parab