

Shabnoor

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

WRIT PETITION NO.5586 OF 2025

Preeti Singhania

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

WITH

WRIT PETITION NO.5587 OF 2025

Sharad Agarwal

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. V. H. Narvekar, for petitioner.

Mr. J. P. Patil, AGP for State – respondent in
WP/5586/2025.

Mr. Bapusaheb Dahiphale, APG for State – respondent
in WP/5587/2025.

CORAM : AMIT BORKAR, J.

DATED : APRIL 28, 2025

P.C.:

1. Challenge raised in both these petitions is directed against an order passed by the Revisional Authority in exercise of powers under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the said Act"). By the impugned order, the Revisional Authority has confirmed the certificate issued by the Recovery Officer under Section 154B-29 of the said Act, relating to the recovery of maintenance charges, sinking fund, and

Digitally
signed by
SHABNOOR
AYUB
PATHAN
Date:
2025.04.28
17:31:52
+0530

repair charges from the petitioners. It appears from the record that the Authorities under the Act had issued the certificate for recovery of these amounts, and the Revisional Authority mainly confirmed the said recovery certificate on the ground that the demands raised by the society are based on various resolutions passed by the Managing Committee from time to time.

2. The learned Advocate appearing for the petitioners has relied upon an order passed by the Registrar in exercise of his powers under Section 154B-29 of the said Act, to submit that any demand for maintenance, sinking fund, or repair charges needs to be strictly made by the society in accordance with its bye-laws, specifically referring to bye-laws Nos. 13(b), 65, and 66. However, on careful perusal of the material placed on record, it is noticed that the certificate under Section 154B-29 had already been issued on 28th December 2022.

3. Once the society raises a demand based on a resolution passed by the Managing Committee, and if a member has a grievance regarding the quantum or fairness of the amount demanded, then the proper and appropriate remedy available to the member is to file proceedings under Section 91 of the said Act, wherein the validity and legality of such resolutions can be tested.

4. Therefore, it shall be open for the petitioners to approach the Co-operative Court under Section 91, if they desire to challenge the legality and validity of the resolutions authorizing the Managing Committee to impose and recover the said charges, which form the basis of the recovery certificate issued under

Section 154B-29.

5. It is clarified that if the petitioners approach the Co-operative Court under Section 91 of the said Act, they shall be entitled to raise all contentions regarding the legality and validity of the demands made by the Society.

6. Further, it is clarified that the question whether the period during which the petitioners were bona fide prosecuting their defence against the demand raised by the Society before this Court can be considered for the purpose of computing limitation under Section 92(4) of the Maharashtra Co-operative Societies Act, 1960, by applying the principles under Section 14 of the Limitation Act, 1963, is a matter which shall be decided by the Co-operative Court at the appropriate stage. The Co-operative Court shall examine this issue independently, in accordance with law, and on its own merits, without being influenced by any observations made in the present judgment. All rights and contentions of the parties on the issue of limitation are expressly kept open to be adjudicated by the Co-operative Court.

7. Thus, while disposing of these petitions, the right of the petitioners to agitate the validity of the resolutions in appropriate proceedings under Section 91 of the Act is kept expressly open.

8. During the course of hearing, the learned Advocate for the petitioners submitted, on instructions, that the petitioners have already deposited 50% of the recoverable dues as per the certificate dated 28th December 2022 with the society. He further submitted that the petitioners undertake to deposit the remaining

50% of the recoverable dues within a period of four weeks from today. The said statement made by the learned Advocate for the petitioners is accepted and taken on record.

9. In view thereof, the petitioners are granted a period of four weeks' time from today to deposit the balance 50% amount recoverable as per the certificate issued under Section 154B-29 on 28th December 2022. It is made clear that if the petitioners fail to deposit the balance amount within the stipulated period, it shall be open for the Society to recover the same by adopting such proceedings as are permissible in law.

10. It is further clarified that the amount deposited by the petitioners towards satisfaction of the recovery certificate shall be subject to the final outcome of the proceedings that may be initiated by the petitioners under Section 91 of the said Act. The rights and contentions of both sides are kept open to be decided on their own merits by the appropriate forum.

11. In the light of the above discussion, both the writ petitions stand disposed of in the above terms. There shall be no order as to costs.

(AMIT BORKAR, J.)