

Shabnoor

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

WRIT PETITION NO.6080 OF 2025

NPS Developers (HUF)

Through Niraj P Shah & Ors.

... Petitioners

V/s.

Ravindra Mathuraprasad Gupta & Ors.

... Respondents

Mr. Sachin Gite for petitioners.

Mr. Walimbe, Additional Government Pleader with
Ms. M. S. Srivastava, AGP for State – respondent Nos.3
to 6.

CORAM : AMIT BORKAR, J.

DATED : MAY 6, 2025

P.C.:

1. Issue notice to the respondents, making it returnable on 29th July 2025, so that they may have an opportunity to respond to the contentions raised in the present petition.
2. Ms. Srivastava, learned Assistant Government Pleader, appears and waives service of notice for and on behalf of respondent Nos.3 to 6, who are the State authorities. Therefore, issuing separate notices to these respondents is not necessary.
3. Prima facie, it appears that the Appellate Authority has set aside the order of amalgamation of the cooperative society at the instance of only two members. While doing so, the Appellate Authority has recorded a finding that the procedure prescribed

under Rule 16 of the Maharashtra Cooperative Societies Rules, 1961, which deals with the process of amalgamation, has not been complied with in its entirety.

4. At this stage, it is relevant to refer to the Constitution Bench judgment of the Hon'ble Supreme Court in the case of *Daman Singh & Others vs. State of Punjab & Others*, AIR 1985 SC 973, where it has been laid down that once a person becomes a member of a cooperative society, that person does not retain an individual right to act in isolation. His rights are governed by the statutory framework applicable to societies, and he is required to act collectively through the society.

5. On a plain reading of the impugned order dated 7th January 2025, it appears that the Appellate Authority has failed to take into account the above binding principle laid down by the Supreme Court. The decision taken by the majority of members or the society at large cannot be lightly interfered with at the behest of a few dissenting individuals, particularly when no manifest illegality or procedural breach is demonstrated. Therefore, in view of the binding precedent in the case of *Daman Singh*, the impugned order, on its face, suffers from legal infirmity.

6. Accordingly, as an interim measure, it is directed that the impugned order dated 7th January 2025 passed by the Appellate Authority shall remain stayed until the next date, i.e., 29th July 2025, so as to avoid any irreparable harm or prejudice to the functioning of the society.

(AMIT BORKAR, J.)