

Rohan Ghelani and others ... Petitioners  
**Vs.**  
 Shree Vile Parle Gujarati Mandal Co-op.  
 Hsg. Soc. Ltd. and others ... Respondents

Mr. Anil Sakhare, Senior Advocate a/w. Mr. Gaurav Srivastav, Ms. Kavita Srivastav and Ms. Malika Mondal i/b. S. K. Srivastav & Co. for Petitioners.  
Mr. Mayur Khandeparkar a/w. Mr. Saket Mone and Ms. Srushti Thorat i/b. Vidhii Partners for Respondent No.1.  
Mr. H. D. Mulla, AGP for Respondent Nos.2 to 4.

**CORAM : MANISH PITALE, J.**  
**DATE : JUNE 09, 2025**

**P.C. :**

. Heard learned counsel for the parties.

2. Mr. Sakhare, learned senior counsel appearing for the petitioners submits that, in the present case, respondent No.3 - Joint Divisional Registrar of Co-operative Societies committed a grave error in passing the impugned order dated 19.03.2025, whereby the order dated 12.12.2024 passed by respondent No.2 - Deputy Registrar of Co-operative Societies was set aside.

3. It was submitted that even if the respondent No.3 came to a conclusion that there was violation of the principles of natural justice, the matter ought to have been remanded to the respondent No.2 for consideration afresh instead of setting aside the entire order passed by the respondent No.2.

4. It was emphasized that the respondent No.3 failed to appreciate the true scope and ambit of Section 76 of the Maharashtra Co-operative

Societies Act, 1960 inasmuch as the effect of the words ‘in accordance with the requisition referred to in sub-section (1)’, was not taken into consideration in the correct perspective, leading to the order passed by the respondent No.2 being erroneously set aside. It was submitted that the question as to whether the remand would be an empty formality as being canvassed on behalf of the contesting respondent No.1 society, it would be for the concerned authority, in this case, respondent No.2, to go into the said question and the same cannot be a reason to not interfere with the impugned order.

5. On the other hand, Mr. Khandeparkar, learned counsel appearing for the contesting respondent No.1 society submits that a proper interpretation of Section 76, particularly sub-sections (1) and (3), of the aforesaid Act would show that only if a Special General Body meeting is not called on the basis of the requisition moved by the 1/5<sup>th</sup> members of the society, can the power under Section 76(3) of the Act be exercised. It was submitted that in terms of the model bye-laws, the managing committee is entitled to decide about the agenda items to be taken up in the meeting upon requisition moved in the aforesaid manner and any dispute that would arise in that regard, could be resolved only under Section 91 of the aforesaid Act as a dispute to be decided by the Co-operative Court. On the aspect of the matter being remanded, it was submitted that subsequent events, particularly order dated 21.02.2025 passed by the respondent No.2 itself, on a further complaint submitted by the petitioners herein, led to findings that clearly indicate that the remand would be an empty formality. He submits that in that light, the petitioners cannot claim that any prejudice has been suffered in the absence of the order of remand.

6. In view of the rival submissions, two issues arise for consideration. Firstly, as to what is the true scope and ambit of Section

76 of the aforesaid Act, particularly the interplay between sub-sections (1) and (3) thereof? Secondly, as to whether, in the facts and circumstances of the present case, remanding the matter would be an empty formality?

7. Issue notice for final disposal on the aforesaid issues, returnable on 21.07.2025.

8. Mr. Khandeparkar, learned counsel waives notice on behalf of respondent No.1. Mr. Mulla, learned AGP waives notice on behalf of respondent Nos.2 to 4.

9. Reply affidavit be filed within four weeks from today. Rejoinder affidavit, if any, be filed on or before 18.07.2025.

**(MANISH PITALE, J.)**

*Minal Parab*