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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7560 OF 2025

Kothari Industrial & Warehouse
Premises Coop. Society Ltd. ... Petitioner

V/s.

The State of Maharashtra, through
Divisional Joint Registrar of
Cooperative Societies & Ors. ... Respondents

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Ms. Leena Patil for the petitioner.

Ms. M.S. Srivastava, AGP for respondent Nos.1 & 2.

Mr. S. Parthsarthy with Ms. Darshana Manjrekar i/by
One Point Legal Solutions for respondent No.3.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 19, 2025

P.C.:

1. The petitioner-society has approached this Court to challenge the action of the Registrar taken under Section 79(2A) of the Maharashtra Cooperative Societies Act, 1960. By the impugned order, the Registrar has directed that respondent No.3 shall not be disturbed in using the adjoining terrace attached to Unit Nos.301 and 302 on the third floor. The Registrar has further directed the petitioner-society to permit respondent No.3 to use the lift and to restore the machinery belonging to him.

2. The learned Advocate for the petitioner has relied upon the judgment of this Court in *Maitri Park Cooperative Housing Society Ltd., Mumbai vs. Virendra Khanna & Ors.*, 2019(1) Mh.L.J. 109. In

that judgment, this Court has clearly laid down the scope of power available to the Registrar under Section 79(2). It has been held that the powers conferred under Section 79(2) are essentially administrative in nature. They are limited to ensuring compliance with the provisions of the Act, Rules, and Bye-laws of the society. The Registrar cannot, under the guise of Section 79(2), adjudicate contentious and disputed questions of civil rights between members and the society. Such matters require adjudication before a competent forum after evidence is led by the parties.

3. Applying the above principle, it is evident that the directions issued by the Registrar in the present case travel far beyond the scope of Section 79. The question whether respondent No.3 has an exclusive right to use the terrace, or the right to install and operate machinery, or the right to insist upon user of the lift, are all matters involving disputed civil rights. These cannot be determined by a summary order of the Registrar under Section 79(2A). The Registrar has, therefore, acted without jurisdiction in issuing such directions.

4. At the same time, it must be clarified that setting aside of the impugned order does not mean that respondent No.3 is left without remedy. If respondent No.3 claims a legal right in respect of the terrace, the lift, or the machinery, he is free to pursue his claim before the competent forum, depending on the nature of his rights. Such remedy remains unaffected by this judgment.

5. In view of the above discussion, the impugned order passed by the Registrar cannot be sustained. It is quashed and set aside.

However, the rights of respondent No.3, if any, are kept open to be adjudicated upon in appropriate proceedings before the proper forum. The writ petition is accordingly allowed.

6. Rule is made absolute in terms of prayer (a).

(AMIT BORKAR, J.)