

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6098 OF 2025

WITH
WRIT PETITION NO.7821 OF 2025

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Phulora Cooperative Housing
Society Limited & Anr.

... Petitioners

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Deepak Pandey for the petitioner in both WPs.

Ms. Snehal Jadhav, AGP for respondent No.1-State in
WP/6098/2025.

Ms. P. J. Gavhane, AGP for respondent No.1-State in
WP/7821/2025.

Mr. C.M. Jadhav i/by SC Legal for respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 24, 2025

PC.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The petitioner is a cooperative housing society. It challenges the Judgment and Order of the Maharashtra State Cooperative Appellate Court. The Appellate Court allowed the appeal of respondent No. 2. It recorded a finding that respondent No. 2 was a past member of the society. It then held that his dispute was maintainable under Section 91 of the Maharashtra Cooperative Societies Act. This finding touches the very foundation of

jurisdiction. The status of a person as a member or past member cannot rest on assumption. It must stand on the material available on record. The society submits that the Appellate Court failed to appreciate the true nature and extent of membership claimed by respondent No. 2.

3. The society had raised a specific objection before the Cooperative Court. It stated that the mother of the disputant was the original member. After her death, the disputant sought membership based on her nomination. Acting on this nomination, the society enrolled him as a member on 30 May 2015. Later, the disputant's brother filed a dispute questioning this enrolment. The Deputy Registrar examined the matter. By order dated 17 May 2021, he cancelled the resolution that had enrolled the disputant. He further directed the society to transfer the membership of Flat No. 604 to the disputant's brother. The society complied with this direction. It passed a resolution on 18 February 2021 removing respondent No. 2 from the membership register. These facts show that the disputant's claim to membership never reached any final conclusion.

4. The Cooperative Court accepted the case of the petitioner society. It held that the disputant was not a member. This conclusion flowed from the documents placed before it. There was no material to show that the disputant continued as a member after the order of the Deputy Registrar. The Cooperative Court therefore held that he could not invoke Section 91 of the Act.

5. The facts are clear. The disputant was brought on the rolls only because he was the nominee of his mother. The law has been steady on this point. A nominee does not become owner of the share or the premises. A nominee only holds the share as a caretaker till the lawful heirs are identified. His position is temporary. It continues only till the competent authority decides who the real legal representative is. When that authority directs the society to give membership to the rightful legal heir, the enrolment of the nominee ends at once. In this case, the Deputy Registrar held that the brother of the disputant was the person entitled to membership. The society acted on that order. Once that happened, the disputant's temporary enrolment ended. A person who is enrolled only as a nominee does not fit within the meaning of past member under Section 91. That expression applies only to a person who was properly admitted as member, who enjoyed membership in his own right, and who later ceased to be member. The disputant never reached that stage. He cannot invoke the jurisdiction of the Cooperative Court.

6. The Appellate Court did not consider this position in law. It treated the disputant's temporary enrolment based on nomination as if it were full and lawful membership. This view has no support in the scheme of the Act. The finding of the Appellate Court cannot survive.

7. Hence, rule is made absolute in terms of prayer clause (b).
No costs.

8. Both the petitions stand disposed of in above terms.
9. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)