

Shabnoor

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

WRIT PETITION NO.8424 OF 2025

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Divyaman Apartments Co-operative
Housing Society Ltd. ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Harish R. Pawar a/w Mr. Shivam S. Gawade, for
the petitioner.

Mr. Yuvraj D. Patil, AGP, for the State – respondent.

Mr. Akshay Shah a/w Harsh Shah, for respondent
Nos.4 and 5.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 26, 2025

P.C.:

1. The present writ petition arises out of the proceedings initiated by the petitioner Housing Society under Section 101 of the Maharashtra Cooperative Societies Act, 1960, for recovery of its dues from respondent Nos. 4 and 5. In exercise of powers under Section 154B-29 of the Act, the Registrar issued a recovery certificate in favour of the petitioner Society. However, on an application moved by respondent Nos. 4 and 5, the Revisional Authority set aside the said certificate, holding that the Society had not furnished the necessary documents, namely the ledger account of the respondents and the detailed statement of dues in the prescribed format.

2. The learned Advocate appearing for the petitioner has drawn attention to the copies of the ledger account as well as the arrears of respondent Nos. 4 and 5, reflected in the tabular charge submitted before the Authority at the stage of Section 101 proceedings. The record placed before this Court shows that such documents were in fact tendered. In spite of this, the Revisional Authority, proceeding on a factual assumption that no such documents were placed, has remanded the matter back under Section 154B-29 of the Act. When the material was already available on record, the finding that the documents were not submitted is factually incorrect. An order based on a wrong assumption of facts cannot be allowed to stand. For this reason, the impugned order is unsustainable and liable to be set aside.

3. At this stage, reliance was placed on behalf of respondent Nos.4 and 5 on the judgment of this Court in *Govind Mahal Cooperative Housing Society Vs Smt. Regena Fernandes* (Writ Petition No. 1718 of 2025) decided on 31.08.2005.

4. On careful consideration, it is clear that the said judgment arose from proceedings initiated under Section 91 of the Maharashtra Cooperative Societies Act, 1960. The nature and scope of proceedings under Section 91 are distinct from those under Section 101. Proceedings under Section 91 involve adjudication of disputes, while proceedings under Section 101 are in the nature of recovery of undisputed dues through summary procedure. Therefore, the principles laid down in the said judgment cannot be mechanically applied to the present case. Hence, the reliance on that judgment is misplaced.

5. In the circumstances, while setting aside the impugned order, it is necessary to direct that the revision application filed by respondent Nos. 4 and 5 be considered afresh by the Revisional Authority. The Revisional Authority shall examine the matter on its own merits within the framework of Section 154 of the Act, quantify the dues of the Society on the basis of the documents available, and pass a reasoned order in accordance with law.

6. In the circumstances, while setting aside the impugned order, it is necessary to direct that the revision application filed by respondent Nos. 4 and 5 be considered afresh by the Revisional Authority. The Revisional Authority shall examine the matter strictly within the framework of Section 154 of the Act. While doing so, it shall keep in view the following principles:

(a) The Authority shall verify the ledger accounts and supporting documents placed by the Society, and also consider any material produced by the respondents, so as to arrive at a clear and correct figure of the dues.

(b) The Authority shall ensure that the respondents are given adequate opportunity to put forth their defence, and principles of natural justice shall be observed in letter and spirit.

(c) The Authority shall bear in mind that proceedings under Section 101 are summary in nature, and its duty is not to conduct a roving enquiry but to confirm whether the amounts claimed by the Society are supported by authentic records.

(d) The Authority shall quantify the exact dues payable by respondent Nos. 4 and 5 and pass a reasoned order setting out the basis of calculation.

(e) The proceedings shall be decided expeditiously, and in any case, within a period of three months from the date of receipt of this order.

7. The Writ Petition stands disposed of.

(AMIT BORKAR, J.)