

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10303 OF 2025

The Naigaum Co-operative HSG Soc. ... Petitioner
Ltd.

V/s.

Aparna Rupesh Pai and Ors. ... Respondents

Mr. Saurav Katkar with Amar Parsekar and Ajinkya Desai, for the petitioner.

Mr. Prashant Kulkarni with Ritika Rajeev, for the respondent no. 1.

Mr. A.C. Bhadang, AGP, for the State.

CORAM : N.J. JAMADAR, J.

DATE : 28th JULY 2025

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ORAL ORDER:

1. Heard the learned counsel for the petitioner.
2. The challenge in this petition is to an order passed by the Divisional Joint Register in Revision Application No. 85 of 2025, whereby the revision application preferred by the petitioner against an order dated 8th January 2024 passed by the Assistant Registrar, Co-operative Society directing the petitioner – society to refund a sum of Rs. 2,75,000/- to the respondent no. 1 which was collected by way of transfer premium described as a major repairs fund, came to be

dismissed.

3. The learned counsel for the petitioner submitted that in the Annual General Body Meeting of the petitioner – society held on 27th October 2018, the society had resolved to carry out major repairs and determined the estimate of minimum repairs then required. For Takalkar building, in which the subject flat is situated, it was then resolved that a sum of Rs. 2,89,000/- would be required. Subsequently, the amount for each flat was crystallised. The respondent no. 1 who had purchased Unit No. 2 in the Takalkar building had voluntarily made the payment towards major repair works. Receipts were issued in the month of June 2022. Thereafter, respondent no. 1 filed a complaint with the Assistant Registrar with the allegations that a sum of Rs. 3,00,000/- was collected from the respondent no. 1, by way of transfer premium.

4. The Assistant Registrar, Cooperative Societies, after perusal of the material on record, came to the conclusion that the collection of the sum of Rs. 3,00,000/- from the respondent no. 1 under the guise of major repairs was in breach of by-law No.13 of the society. The Assistant Registrar, thus, directed the refund of the sum of Rs. 2,75,000/-, after deducting a sum of Rs. 25,000/- towards the transfer

charges as approved by the Commissioner of the Cooperative Societies vide circular dated 9th August 2021.

5. The petitioner carried the matter in revision before the Joint Register Cooperative Societies. By the impugned order, the Joint Registrar, Cooperative Society proceeded to dismiss the revision, concurring with the view of the Assistant Registrar. The fact that the resolution passed by the society was in contravention of the by-laws was highlighted by the Joint Registrar, Cooperative Societies.

6. From the perusal of the material on record, it becomes evident that the case of the petitioner-society was that the major repair fund was to be collected in the event of the transfer of the flat. The learned counsel for the petitioner invited the attention of the Court to Clause (b) of Para 10 of the Resolution passed in the AGM held on 27th October 2018.

7. This submission does not merit acceptance. This submission implies that the major repair funds were to be collected only in the event of the transfer of the flat. It is not the case of the petitioner – society that the repair funds were to be collected or have been collected from all the members of the society, who were the occupants

of the flats on the given date, in equal proportion.

8. In this view of the matter, and especially having regard to the stand of the petitioner-society that for transfer purpose and NOC in the name of the prospective purchaser, the respondent no. 1 had not approached the society and voluntarily offered to pay a sum of Rs. 2,75,000/- to the society as a contribution towards such repairs already incurred, betrays the purpose for which the sum of Rs. 2,75,000/- was collected.

9. The authorities were justified in drawing an inference that the said sum of Rs. 2,75,000/- was collected as and by way of the transfer premium disguised as a major repair fund. Thus, no interference is warranted in the impugned order.

10. The petition stands dismissed.

(N.J. JAMADAR, J)