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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10827 OF 2025

Arun Sitaram Chambhare ... Petitioner
V/s.
State of Maharashtra & Ors. ... Respondents

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Mr. Girish S. Godbole, Senior Advocate with Mr. Aditya Joshi i/by Mr. Sumit Kothari for the petitioner.

Mr. P.V. Nelson Rajan, AGP for respondent Nos.1 to 3-State.

Mr. Shrivallabh S. Panchpor for respondent No.4.

Mr. Kishor Patil i/by Mr. Valmiky H. Narveka for respondent No.5.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 17, 2025

P.C.:

1. **Rule.** Rule is made returnable forthwith.
2. This writ petition arises from action taken under Section 78A of the Maharashtra Cooperative Societies Act, 1960. The action rests on the allegation that the petitioner incurred a disqualification under Section 73-CA. The allegation is that he entered into a contract with his nephew. The complainant asserts that the nephew was a member of the petitioner's family and that such transaction violated the statutory bar. The foundation of the action must be examined in light of the material already

adjudicated between the parties.

3. The revisional authority accepted this allegation and proceeded to disqualify the petitioner. It did so without examining whether the issue already stood concluded in earlier proceedings. This approach has resulted in a finding that runs contrary to what stands recorded by the competent forum under the Act.

4. The record placed before this Court shows that in Dispute No. 61 of 2015, the same issue was placed before the Cooperative Court under Section 91. The Cooperative Court considered the evidence and returned a clear finding in paragraph 30. It held that the petitioner and his nephew live separately and conduct separate businesses. The Cooperative Appellate Court considered the statutory definition of family under Section 75(2). The definition does not include a nephew. On this basis, the Appellate Court rejected the appeal and recorded in paragraph 147 that the nephew cannot be treated as a family member. These findings were rendered in adversarial proceedings. They were rendered after full opportunity and they attained finality. They bind the parties on the same factual controversy.

5. Once a competent court has adjudicated the same controversy in substantive proceedings under Section 91, the Registrar could not reopen the matter through action under Section 78A. The Registrar cannot sit in appeal over the findings of the Cooperative Court. The statutory power under Section 78A is supervisory. It is not a substitute for adjudication already undertaken under Section 91.

6. If the contesting respondent claims that new facts or later events create fresh liability or give rise to an independent cause of action, the law provides the remedy. That party must initiate appropriate proceedings before the competent forum. The question of disqualification under Section 73-CA already stands decided by the Cooperative Court. The revisional authority could not record a finding inconsistent with the earlier finding that the petitioner and his nephew reside separately. To allow such conflicting findings would erode certainty in cooperative disputes. It would also unsettle the scheme of the Act where jurisdiction of distinct authorities is clearly demarcated.

7. For these reasons, I find that the invocation of Section 78A was without authority. The Registrar acted contrary to the binding adjudication already made under Section 91. The impugned order cannot stand in law. It deserves to be set aside.

8. Accordingly, rule is made absolute in terms of prayer clauses (a) and (b).

9. No costs.

(AMIT BORKAR, J.)