

MPBalekar

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

WRIT PETITION NO. 11112 OF 2025

Sudhakar Hanumant Pawar,

Aged 64 years, Indian Inhabitant, owner of flat No. 301, Pratik A, Urja Pratik Co-operative Housing Society Ltd., S. No. 65, Hissa No. 03 & 04, Kharegaon, Kalwa (W), Thane – 400 605.

... Petitioner

V/s.

**1 The Hon'ble Divisional Joint Registrar
Co-operative Societies,**

Konkan Division, 3rd Floor, Belapur, Navi Mumbai – 400 614.

2 District Deputy Registrar,

1st Floor, Gamdevi, Gamdevi Mandai Building, Near Ground, Thane – 400 601.

**3 Urja Pratik Co-operative Housing
Society Ltd.,**

Having its registered office at S. No. 65, Hissa Nos. 03 & 04, Kharegaon, Kalwa (W), Thane – 400 605.

... Respondents

Mr. Aseem Naphade along with Rajendra J. Rathod and Dhruv B. Jain for the petitioner.

M.S. Shrivastava, AGP for the State – Respondent Nos.1 & 2.

CORAM : AMIT BORKAR, J.

RESERVED ON : DECEMBER 15, 2025

PRONOUNCED ON : DECEMBER 19, 2025

JUDGMENT:

1. By the present writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner calls in question the judgment and order passed in Revision Application No. 93 of 2024. By the said order, the Revisional Authority has remanded the proceedings to the District Deputy Registrar for a fresh decision under Section 154B-29 of the Maharashtra Co-operative Societies Act, 1960.

2. The facts giving rise to the present petition are not in dispute. On 24 September 2021, Respondent No. 3 instituted Recovery Application No. 703 of 2021 before Respondent No. 2, claiming an amount of Rs. 3,12,045/- from the petitioner. The petitioner filed his reply and opposed the claim on the ground of limitation. He specifically contended that the recovery sought was barred by law and could not be enforced. By judgment and order dated 23 March 2023, Respondent No. 2 dismissed the recovery application. The dismissal was founded on the finding that the statement of account produced by Respondent No. 3 was not maintained on a month-wise basis and that certain charges were not reflected in the account extract. It was further held that there was non-compliance with Rules 86(a) to 86(e) of the Maharashtra Co-operative Societies Rules, 1961. On this ground, the recovery application came to be rejected.

3. Aggrieved by the said decision, Respondent No. 3 preferred Revision Application No. 93 of 2024. By the impugned order, the Divisional Joint Registrar remanded the proceedings to

Respondent No. 2. The revisional authority recorded a finding that the account extract furnished by Respondent No. 3 for the period from 1 April 2012 to 31 March 2021 was in conformity with Rules 86(a) to 86(e) of the Maharashtra Co-operative Societies Rules. It was further observed that the petitioner had not furnished specific particulars to demonstrate as to how the said rules were not complied with by the society. On this reasoning, the matter was remanded for fresh consideration. This order of remand is the subject matter of challenge in the present writ petition.

4. Mr. Naphade, learned Advocate appearing for the petitioner, submitted that the dues sought to be recovered under Section 154B-29 of the Maharashtra Co-operative Societies Act pertain to a period commencing from the year 2011. He invited attention to Section 92(2) of the Act, which prescribes the period of limitation in respect of disputes other than those covered by clauses (a) to (d) of Section 92. According to him, such disputes are governed by the provisions of the Limitation Act, as if the disputes were a civil suit and the Co-operative Court were a Civil Court. He, therefore, urged that the claim of the society is clearly barred by limitation. On this premise, it was submitted that the order remanding the proceedings is unsustainable in law and deserves to be quashed and set aside.

5. In order to appreciate the said submission, it becomes necessary to advert to the provisions of Section 92 and Section 154-B-29 of the Maharashtra Co-operative Societies Act, which read as follows. :-

Section 92. Limitation.—(1) Notwithstanding anything contained in [the Limitation Act, 1963 (36 of 1963)], but subject to the specific provisions made in this Act, the period of limitation in the case of a dispute referred to [the Cooperative Court] under the last preceding Section shall—

(a) when the dispute relates to the recovery of any sum, including interest thereon, due to a society by a member thereof be computed from the date on which such member dies or ceases to be a member of the society;

(b) when the dispute is between a society or its committee, and any past committee, any past or present officer, or past or present agent or past or present servant or the nominee, heir or legal representative or a deceased officer, deceased agent or deceased servant of the society, or a member, or past member, or the nominee, heir or legal representative of a deceased member, and when the dispute relates to any act or omission on the part of either party to the dispute, be six years from the date on which the act or omission with reference to which the dispute arose, took place;

(c) when the dispute is in respect of any matter touching the constitution, management or business of a society which has been ordered to be wound up under Section 102, or in respect of which a nominated committee [or an administrator or committee or authorised person has been appointed under Sections 77-A, 78 or 78-A, be six years from the date of the order issued under Sections 77-A, 78 or 78-A or, under Section 102, as the case may be];

(d) when the dispute is in respect of an election of [a committee or officers] of the society, be [two months] from the date of the declaration of the result of the election.

(2) The period of limitation in the case of any other dispute except those mentioned in the foregoing sub-section which are required to be referred to [the Cooperative Court] under the last preceding Section shall be regulated by the provisions of [the Limitation Act, 1963 (36 of 1963)], as if the dispute were a suit, and 6[the Cooperative Court] a civil court.

(3) Notwithstanding anything contained in sub-sections (1)

and (2), [the Cooperative Court] may admit a dispute after the expiry of the limitation period, if the applicant satisfies [the Cooperative Court] that he had sufficient cause for not referring the dispute within such period, and the dispute so admitted shall be a dispute which shall not be barred on the ground that the period of limitation had expired.

154-B-29. Recovery of certain sums and arrears due to housing societies as arrears of land revenue.—

(1) Notwithstanding anything contained in Sections 91, 93 and 98, on an application made by a housing society for the recovery of its dues or for the recovery of its repairs and maintenance, construction cost and service charges, and on the housing society concerned furnishing a statement of accounts and any other documents as may be prescribed, in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears.

Explanation.—For the purposes of this sub-section, the expression “repairs and maintenance and service charges” means such charges as are so specified in the by-laws of the concerned housing society.

(2) Where the Registrar is satisfied that the concerned society has failed to take action under the foregoing sub-section in respect of any amount due as arrears, the Registrar may, on his motion, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears and such a certificate shall be deemed to have been issued as if on an application made by the society concerned.

(3) A certificate granted by the Registrar under sub-section (1) or (2) shall be final and a conclusive proof of the arrears stated to be due therein, and the same shall be recoverable according to the law for the time being in force, as arrears of land revenue. A revision shall lie against such order or grant of certificate, in the manner laid down under Section 154 and such certificate shall not be liable to be questioned in any court.

(4) It shall be lawful for the Collector and the Registrar to

take precautionary measures in accordance with the provisions of the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966) or any law or provisions corresponding thereto for the time being in force, until the arrears due to the concerned society, together with interest and any incidental charges incurred in the recovery of such arrears, are paid, or security for payment of such arrears is furnished to the satisfaction of the Registrar.

6. A careful reading of Section 92 of the Maharashtra Co-operative Societies Act makes the legislative scheme clear. Section 92 does not speak of limitation in general terms. It deals with limitation only for a specific class of proceedings, namely disputes which are required to be referred to and decided by the Co-operative Court. The opening words and the structure of the section leave no room for doubt on this aspect.

7. Sub-section (1) of Section 92 classifies disputes into distinct categories and prescribes limitation for each of them. Clause (a) deals with disputes relating to recovery of any sum, including interest, due to a society by its member. Even in such cases, the legislature has consciously fixed an unusual starting point of limitation. The limitation does not run from the date on which the amount becomes payable. It begins only when the member dies or ceases to be a member of the society. This itself shows that Section 92 operates in a special field and applies only to disputes of a particular nature placed before the Co-operative Court.

8. The remaining clauses of sub-section (1) deal with disputes arising out of acts or omissions of office bearers, disputes connected with winding up or supersession, and disputes relating to elections. All these clauses are clearly linked to adjudication by

the Co-operative Court. None of them contemplate a summary recovery mechanism or administrative certification of dues. Importantly, none of these clauses deal with recovery proceedings of the nature contemplated under Section 154B-29.

9. Sub-section (2) of Section 92 further reinforces this position. It provides that any other dispute, except those covered by sub-section (1), which is required to be referred to the Co-operative Court under Section 91, shall be governed by the Limitation Act as if the dispute were a civil suit. The emphasis again is on disputes before the Co-operative Court. The provision does not extend its application to proceedings before the Registrar or to statutory recovery mechanisms provided elsewhere in the Act.

10. It is well settled that ordinarily proceedings initiated under Section 154B-29 of the Act are not decided by the Co-operative Court. The statute entrusts this power to the Registrar. This distinction is deliberate and flows from the language of the provision itself.

11. Section 154B-29 opens with a non obstante clause. It clearly states that it will operate notwithstanding anything contained in Sections 91, 93 and 98 of the Act. By using such overriding words, the legislature has made its intention explicit. It has carved out a separate route for recovery of dues of housing societies. This route does not pass through the Co-operative Court. It vests authority in the Registrar to examine the statement of accounts, make necessary inquiry, and issue a recovery certificate.

12. The scheme of Section 154B-29 shows that it is a self-

contained mechanism. It is designed for speedy and effective recovery of society dues. It stands apart from the adjudicatory process contemplated under Section 91. Once this distinction is kept in mind, the role of Section 92 becomes clear. Section 92 governs limitation only in respect of disputes which are either filed before or are required to be referred to the Co-operative Court under Section 91. It does not travel beyond that field.

13. When Section 154B-29 is read alongside Section 92, the distinction becomes sharper. Proceedings under Section 154B-29 are not disputes referred to the Co-operative Court. They are recovery proceedings before the Registrar. The legislature has designed Section 154B-29 as a separate code for recovery of dues of housing societies, supported by a non obstante clause. This indicates a conscious departure from the dispute resolution framework under Sections 91 and 92.

14. Therefore, the entire scheme of Section 92 remains confined to disputes adjudicated by the Co-operative Court. It cannot be stretched to control or regulate recovery proceedings under Section 154B-29. Any interpretation which seeks to mechanically apply Section 92 to proceedings before the Registrar would ignore the plain language of the statute and blur the clear line drawn by the legislature between adjudicatory disputes and summary recovery proceedings.

15. In this backdrop, the submission advanced on behalf of the petitioner that Section 92(2) should be applied to proceedings under Section 154B-29 cannot be accepted. Proceedings before the

Registrar under Section 154B-29 are not disputes before the Co-operative Court. They are statutory recovery proceedings. Importing Section 92(2) into such proceedings would amount to rewriting the statute and ignoring the express legislative design.

16. There is no provision in Section 154B-29 which makes it subject to Section 92. On the contrary, the presence of the non obstante clause indicates exclusion of the dispute resolution framework under Sections 91 and 92. The contention that limitation under Section 92(2) governs proceedings under Section 154B-29, therefore, has no support either in the text of the Act or in its scheme. The said submission is devoid of merit and stands rejected.

17. This position stands reinforced by the judgment of a coordinate Bench of this Court in *Sea Face Park Co-operative Housing Societies v. State of Maharashtra*, 2018 SCC OnLine Bom 1069. In that case, the Court examined the scope of Section 92 in detail. It was held that even a dispute relating to recovery of sums due to a society from its member may fall under clause (b) of subsection (1) of Section 92 when it arises out of an act or omission, though it may also answer the description under clause (a). The Court clarified that if the dispute falls under clause (b), the period of limitation is six years from the date of the act or omission. If it falls under clause (a), the limitation is to be reckoned from the date on which the member dies or ceases to be a member of the society. The judgment makes it clear that Section 92 operates strictly within the field of disputes before the Co-operative Court. It does not extend its reach to summary recovery proceedings

before the Registrar.

18. A similar view has been taken by another coordinate Bench of this Court in *Versova Gurudutt Co-operative Housing Society Ltd Divisional Joint Registrar, Co-operative Societies, Mumbai and others, 2004(1) MhLJ 1118*. In that case, the Court considered the applicability of limitation to execution of a recovery certificate issued under Section 101 of the Act. The Court held that disputes raised before the Registrar under Section 101 do not attract Section 92(1) of the Act. Consequently, the limitation prescribed under Section 92(1)(a) cannot be applied to proceedings before the Registrar. Though the provision involved was Section 101, the principle laid down squarely applies. Proceedings before the Registrar, which are summary in nature and governed by specific statutory provisions, stand on a different footing from disputes before the Co-operative Court.

19. In view of the statutory scheme and the binding precedents of this Court, no infirmity can be found in the approach adopted by the revisional authority. The challenge raised in the writ petition rests on an erroneous assumption that Section 92 governs proceedings under Section 154B-29. That assumption is contrary to the plain language of the Act and the law laid down by this Court.

20. The writ petition, therefore, lacks merit and is accordingly dismissed. No order as to costs.

(AMIT BORKAR, J.)