

M/s. P Chandra Trading Co.	...	Petitioner
V/s.		
Mistry Park Annex Cooperative Society Ltd.	...	Respondents

Mr. Akshay R. Kapadia, for the Petitioner.

CORAM : N.J. JAMADAR, J.
DATE : 3rd SEPTEMBER 2025

PC:

1. The challenge in this petition is to the judgment and order dated 11th July 2025 passed by the learned President, Maharashtra Co-operative Appellate Court, Mumbai in AO No. 29 of 2025 whereby the learned President dismissed the appeal preferred by the petitioner – original opponent against an order dated 22nd April 2025 passed by the In-charge, Co-operative Court No. II, Mumbai in Dispute No. CC/II/259/2023, thereby restraining the petitioner, their partners directors, agents, servants and persons claiming through them from changing the use of the garage no. C for commercial activities other than parking car/vehicle, till the final decision of the dispute. The respondent society / disputant was also restrained from levying commercial charges in respect of the the suit garage.

2. Mr. Kapadia, the learned counsel for the petitioner, submitted

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that the petitioner has been using the suit garage for commercial purpose since long and with the consent of the society. An endeavour was made to draw home the point that the society has charged maintenance at the commercial rate for the suit garage. The petitioner could not obtain the permission from the Municipal Corporation as the society refused to give consent for the commercial use of the suit garage. It was further submitted that the premises in question is not a garage in the strict sense of the term and is an enclosed premises situated afar from building of the society. Therefore, the Courts below were in error in granting injunction against the petitioner.

3 None of the aforesaid submissions deserve any consideration.

4. First and foremost, the Courts below have recorded concurrent prima facie findings of facts based on objective material and those findings are not amenable to interference in exercise of the supervisory writ jurisdiction, unless it could be demonstrated that those findings are totally perverse. The supervisory jurisdiction being correctional in nature, mere errors in appreciation of facts and application of law are not open for correction. Nor can this Courts re-appraise and re-weigh the material.

5. Secondly, the learned President, Co-operative Court was wholly justified in holding that in accordance with Development Control Regulations the garage can only be used for parking the vehicle and its user cannot be changed. It was the stated case of the petitioner/opponent that the said garage was being used for assembling artificial jewellery. Since, the suit garage was used for commercial purpose without permission of the Municipal Corporation,

the said user was patently illegal.

6. The aforesaid view of the Appellate Court is factually sound and legally impeccable. Neither tacit consent of the Co-operative Society nor the fact that the Society had, in the past, charged maintenance at the commercial rate, even if taken at par, does provide any justification for the user of the suit garage for commercial purpose.

7. Resultantly, no interference is warranted in the impugned order.

8. The petition stands dismissed.

(N.J. JAMADAR, J)