

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

CIVIL WRIT PETITION NO. 11887 OF 2025

Jayant Patil & Ors.

..Petitioners

Versus

The Divisional Joint Registrar of
Co-Op. Soc. Mumbai & Ors.

..Respondents

Mr. Rahul Soman a/w. Suyash More for Petitioners.

Mr. Nelson Rajan P V, AGP for State/ Respondent.

Smt. Neha Bhide, GP a/w. Ms. Sulbha Chipade, AGP for
Respondent No.5.

Mr. Ajaykumar Bhalke, Asstt. Registrar, Respondent No.5 present.

CORAM : AMIT BORKAR, J.

DATE : 07 NOVEMBER 2025

PC :

1. Rule is issued. With consent of both sides, the matter is taken up for final hearing.

2. The petitioners are members of the managing committee of a cooperative housing society. They challenge the orders passed by Respondent Nos.1 and 2 under Sections 79A(3), 77A and 154B(27) of the Maharashtra Cooperative Societies Act. The basis for action under Section 79A(3) is that the managing committee did not refund the excess transfer fee to Respondent No.2 and did not submit a rectification report as directed by the authority under Section 89A. The material placed on record shows that the

authority assumed non-compliance without verifying whether the committee had fulfilled the direction.

3. On that basis, Respondent No.2 passed an order dated 29 July 2024 under Section 77A and appointed an Administrator to take over the day to day affairs of the society. Appointment of an Administrator is a serious step. It can be taken only when the law is violated and when the record supports such action. Such power cannot be exercised casually.

4. The petitioners pointed out before the Appellate Authority that they had refunded the excess transfer fees by their letter dated 01 January 2024. The refund letter is placed on record. Respondent No.2 did not dispute its receipt. Thus, on the date when the authority passed the order alleging non-compliance, the payment already stood refunded. Once the society had complied, there was no justification to invoke Section 77A and appoint an Administrator.

5. Respondent No.2, who is added as Respondent No.5 in his personal capacity, is present in Court. He has filed an affidavit in support of the impugned order. The learned AGP, on instructions of Respondent No.5, states that Respondent No.2 withdraws the orders passed by him under Sections 79A(3) and 77A of the Act. Even though the Appellate Authority had confirmed the order, the facts show that Respondent No.2 acted without examining whether the managing committee had already complied with the direction.

The action taken was not supported by the record and resulted in an illegal appointment of an Administrator. In view of the statement made by Respondent No.2 before the Court, the Rule is made absolute in terms of prayer clauses (a) to (e).

6. The petition stands disposed of.

(AMIT BORKAR, J.)