

MPBalekar

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

WRIT PETITION NO. 12974 OF 2025

Regent Co-operative Housing Society
Ltd. ... Petitioner

V/s.

The Divisional Joint Registrar,
Co-operative Societies, Mumbai and Anr. ... Respondents

Mr. Rajneel Sonawane for the petitioner.

Mr. P.V. Nelson Rajan for the State - Respondent Nos. 1
& 2.

Mr. Abhijit S. Singh for Respondent No.4.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 23, 2025

P.C.:

1. The writ petition arises from proceedings taken under Section 22(2) of the Maharashtra Co-operative Societies Act, 1960. The dispute concerns the grant of membership and the basic question whether the premises claimed by the respondent answers the description of a “flat” under the Act. The Court is, therefore, concerned only with the legality of the decision-making process adopted by the authorities under the Act and not with any civil title dispute.

2. The main contention of the petitioner-society is that according to the sanctioned building plan for the 4th floor of B-Wing, which the society describes as A-Wing, there exists only one

residential flat. That flat consists of one puja room, one living room, two bedrooms, two toilets, one kitchen, and a single entrance. This sanctioned plan formed the very basis of registration of the society. The society submits that if the expression “flat” under Section 154B(1)(13) of the MCS Act is understood with reference to the sanctioned plan, then neither an individual member nor the society has authority to divide such single flat into two separate units. Such division can take place only if the planning authority permits it by approving a revised plan. No such permission is shown on record.

3. This Court has already examined the meaning and scope of the term “flat” in the case of *Uday Dalal v. Divisional Joint Registrar, Cooperative Societies, Writ Petition (L) No.15089 of 2025 decided on 26 November 2025*. In that decision, the Court held that the concept of a flat under Chapter VIII of the MCS Act cannot be read in isolation. It must be understood in harmony with the sanctioned building plan, the layout approved by the planning authority, and the statutory scheme governing housing societies. A flat cannot be treated as an independent unit merely because it is physically occupied or partitioned, unless such status is supported by lawful approval.

4. In the present case, the specific grievance of the petitioner is that the premises claimed by the respondent is not an independent flat at all. It is alleged to be a portion carved out of a larger flat shown as a single unit in the sanctioned plan. This contention goes to the root of the matter. However, the record shows that the District Deputy Registrar and the Divisional Joint Registrar have

not examined this issue at all. They have proceeded without verifying whether the alleged division of the flat is supported by any sanctioned plan or approval of the planning authority. Such omission amounts to failure to consider a relevant and material factor.

5. For this reason, the impugned orders cannot be sustained. Both the orders passed by the District Deputy Registrar and the Divisional Joint Registrar are set aside. The proceedings are remanded to the Deputy Registrar, Co-operative Societies, for fresh consideration. The parties shall be at liberty to place on record certified copies of the sanctioned building plan and any other relevant material. The Deputy Registrar shall re-adjudicate the issue by applying the principles laid down by this Court in *Uday Dalal* and by confining the inquiry strictly to what is supported by documentary and statutory evidence.

6. The Deputy Registrar shall decide the matter expeditiously and in accordance with law. All contentions of the parties are kept open.

7. With these directions, the writ petition stands disposed of.

(AMIT BORKAR, J.)