

Shabnoor

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

WRIT PETITION NO.13544 OF 2025

Baltazar Fernandes & Ors.

... Petitioners

V/s.

The Deputy Registrar of
Societies, H-West Ward & Ors.

... Respondents

Ms. Deepali Bagla i/by Bagla & Associates for the
petitioners.

Mr. Hamid D. Mulla, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 17, 2025

P.C.:

1. Prima facie, it appears that the District Deputy Registrar, H-West Ward, Mumbai, has granted a “No Objection” to the redevelopment of the housing society. However, on careful examination, there is nothing in the Maharashtra Cooperative Societies Act, 1960, or the Maharashtra Cooperative Societies Rules, 1961, that empowers the Registrar to issue such a “No Objection.” The law does not contemplate or recognise any such function. Neither the Act nor the Rules contain a provision requiring the Registrar’s approval or permission for redevelopment decisions taken by a cooperative housing society.

2. Under the scheme of the Act, the General Body of the society is the supreme authority in matters concerning the management and affairs of the society. The decision to redevelop the building is

one such matter falling squarely within the domain of the General Body. Once a decision is taken by a majority of members in accordance with the bye-laws and the Government Resolution dated 4th July 2019, it binds the society. If any member believes that the process adopted by the society violates the Act, the Rules, or the bye-laws, the proper remedy is to approach the Cooperative Court under Section 91 of the Maharashtra Cooperative Societies Act. That is the statutory forum created to resolve disputes touching the business and management of a society.

3. The Registrar has no authority, either under statute or under the Government Resolution, to insist upon a “No Objection” before or after the society’s decision. His role, as laid down in the Government Resolution, is limited to ensuring that the process is transparent and that all members get a fair opportunity to participate. The Resolution requires that an Authorised Officer, nominated by the Registrar, should be present at the Special General Meeting where the developer is to be selected. The purpose of such presence is purely supervisory. The Authorised Officer is meant to observe the proceedings, confirm that the quorum is met, and ensure that the minutes, voting, and resolutions are properly recorded.

4. The society must send copies of the notices, agenda, and minutes to the Registrar’s office within fifteen days of the meeting. This requirement is designed to maintain record and transparency. It does not amount to an obligation on the society to seek the Registrar’s permission or approval. Nothing in the Resolution authorises the Registrar to review, modify, or veto the decision

taken by the General Body. The only requirement is that the selection process be held in his presence and duly documented. Once the General Body approves the redevelopment and selects a developer, the society is required to execute the Development Agreement within three months.

5. This structure shows that the controlling authority rests with the members of the society, acting collectively through the General Body. The Registrar's role is limited to process oversight. He is not vested with adjudicatory or discretionary power in such matters. The Government Resolution intends to secure procedural fairness, not to add another layer of bureaucratic control.

6. From the available material, it is evident that the District Deputy Registrar had no lawful authority to issue or grant a "No Objection." His action of doing so, therefore, has no legal foundation. Such a "No Objection" does not confer any legal status upon the redevelopment decision, nor is it a condition precedent to its validity.

7. All Registrars in the State must henceforth refrain from insisting upon, accepting, or processing proposals for redevelopment on the basis of such "No Objection." Their role must remain confined to supervision, as contemplated by the Government Resolution. Only the General Body has the competence to decide whether and how redevelopment should take place.

8. In practical application, societies must adhere to the safeguards prescribed in the Resolution. They must request the

appointment of an Authorised Officer from the Registrar, ensure his presence in the meeting, maintain detailed minutes, video recordings, and written consents of members, and forward these records to the Registrar's office. These steps strengthen the legitimacy of the decision.

9. If, however, the Registrar fails or refuses to appoint an Authorised Officer within a reasonable time, or delays action in a manner causing prejudice to the society, such conduct can be questioned before the competent authority or court. Yet, the absence of any "approval" or "No Objection" from the Registrar, after the General Body has taken a lawful decision, cannot by itself invalidate the redevelopment process.

10. In sum, the Government Resolution of 4th July 2019 is designed to ensure procedural discipline, accountability, and transparency. It does not create any new power in the hands of the Registrar to approve or disapprove redevelopment. The General Body of the housing society remains the ultimate decision-making authority. The Registrar's function is only to oversee that the process is fair and in conformity with law, not to control or substitute the collective will of the members.

11. The learned AGP shall forthwith communicate this order to the Commissioner of Cooperation and the Principal Secretary, Cooperation Department, Mantralaya, Mumbai.

12. The Commissioner shall issue a clear departmental circular to all Registrars across the State. The circular must instruct Registrars not to insist upon, accept, or process redevelopment

proposals on the basis of any “No Objection” purportedly issued by the Registrar. The circular must also remind Registrars of the prescribed supervisory tasks under the Government Resolution; namely, appointment of an Authorised Officer, attendance at the SGM, video-recording, and preservation of notices and minutes.

13. The Department shall place the circular on the Cooperation Department’s official website. The Department must file a compliance affidavit in this Court showing that the circular was issued.

14. List the writ petition on **6 November 2025**.

(AMIT BORKAR, J.)