

Shabnoor

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

WRIT PETITION NO.13899 OF 2025

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A Cooperative Housing Society Ltd.

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondent

Ms. Ruchi Kamdar a/w Dinesh Rane, for the Petitioner.

Mr. Y. D. Patil, AGP for the State – Respondent Nos.1
to 3.Mr. Ganesh Gole a/w Vijendra, Ms. Sunitha Peruma i/b
Sachin V. Masurkar, for Respondent Nos. 6 & 7.**CORAM : AMIT BORKAR, J.****DATED : DECEMBER 2, 2025****P.C.:**

1. The petition concerns the exercise of jurisdiction under Section 154(B-29) of the MCS Act. The provision empowers the authority to examine disputes relating to recovery of dues. The petitioner is a housing society that seeks lawful recovery of maintenance from its members. When a statutory forum is created for addressing such grievances, the authority must confine itself to the record and apply the statute in its plain sense.

2. The District Deputy Registrar declined relief on the premise that Unit Nos. 1103A and 1103B form a single residential unit in the eye of law. He held that the society cannot levy separate

maintenance on each unit. Such a conclusion rests on an assumption about the identity of the premises. The authority ought to have examined the factual foundation. A finding that has serious civil consequences must rest on clear material. It cannot proceed on conjecture.

3. The record shows that right from the inception of the society, including at the stage of registration of the building, Unit Nos. 1103A and 1103B stood recorded as two independent units. Separate shares were allotted. Separate contribution was assessed. The occupant accepted this position for years. This consistent course of conduct carries evidentiary value. In cooperative jurisprudence, long-standing treatment of a property as an independent unit forms a relevant factor while determining liability of members. The Registrar ignored this material. His view that the society lacked authority to levy separate maintenance stands unsupported by the record. Such an approach does not accord with the duty to give due weight to contemporaneous documents.

4. The respondents have raised certain defences in their reply. If the Deputy Registrar finds that these issues go to the root of the dispute, he shall examine them. The authority must evaluate the rival claims on settled principles. Each party must receive a fair opportunity. The law expects the authority to weigh the evidence, apply the correct test, and render a clear finding.

5. The order of the District Deputy Registrar and the order of the Revisional Authority suffer from errors. They stand set aside.

6. The matter is remanded to the Deputy Registrar for a fresh adjudication. The authority shall confine itself to the legal and factual issues placed before it.
7. The Deputy Registrar shall determine the dues payable to the petitioner society. He shall pass a reasoned order. He shall consider the submissions of both sides. He shall grant both parties an opportunity of hearing.
8. The parties shall remain present before the Deputy Registrar, G North Ward, Malhotra House, Mumbai, on 8 December 2025 at 10.30 a.m.
9. After granting hearing to both sides, the Deputy Registrar shall decide the issue of calculation of dues as per defense raised in the reply to the application within eight weeks from the date of their appearance.
10. The writ petition stands disposed of.
11. Pending interlocutory applications, if any, also stand disposed of.

(AMIT BORKAR, J.)