

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14652 OF 2025

Deepak Shantaram Bhat ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. D.D. Singh with Mr. Shriram J. Singh i/by Mr. D.K. Shukla for the petitioner.

Ms. Kavita N. Solunke, Additional G.P with A.A. Alaspurkar, AGP for respondent Nos.1 to 3-State.

Mr. Aseem Nahpade with Ms. Yashvi Panchal and Mr. Akshay Chorte for respondent No.5

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CORAM : AMIT BORKAR, J.

DATED : DECEMBER 17, 2025

PC.:

1. **Rule.** Rule is made returnable forthwith.
2. The present writ petition takes its origin from proceedings initiated under Section 22(2) of the Maharashtra Cooperative Societies Act, 1960, hereinafter referred to as the MCS Act.
3. It is not in dispute that the flat in question was originally owned by the father of the petitioner and respondent No.5. Upon his demise, the property devolved upon their mother. After the death of the mother, the petitioner and respondent No.5 succeeded to the property as joint owners by operation of law.
4. There is no controversy that the petitioner and respondent No.5 continue to be joint owners of the flat. The real issue is

limited and precise. It concerns the question as to who is entitled to continue as a member of the society. This issue stands governed by Section 154B-13 of the MCS Act. The said provision mandates that upon the death of a member, the society shall transfer the right, title, and interest of the deceased member to a person on the basis of a testamentary document, succession certificate, legal heirship certificate, or a family arrangement executed by the persons entitled to inherit the property of the deceased member, or in favour of a duly nominated person in accordance with the Rules.

5. In the present case, the petitioner asserts that a family arrangement was arrived at between himself and respondent No.5. The material supporting such arrangement is an affidavit sworn by respondent No.5 on 3 April 2006. In the said affidavit, respondent No.5 has made a clear and categorical declaration as follows:

“4. I say that we have by common consent amongst ourselves decided that Mr. Deepak Shantaram Bhat shall only succeed to the said estate of the said deceased members in the said society comprised of the said shares and the said flat No.A-4 in accordance with the provisions of Section 30 of the Maharashtra Cooperative Societies Act, 1960, read with Rule 25 of the Maharashtra Cooperative Societies Rules, 1961.

5. I say that with a view to facilitate the said society to select Mr. Deepak Shantaram Bhat in his capacity as legal heir to succeed to the shares and interest of the said deceased members in the property of the society including the said flat No.A-4 in accordance with the provisions of Section 30 of the Maharashtra Cooperative Societies Act, 1960, read with Rule 25 of the Maharashtra Cooperative Societies Rules, 1961 particularly since there is no nomination left by the said deceased members in the said

society. I have relinquished my share or interest in the said five shares and in the said flat No.A-4 held by the said deceased members in the said society in favour of Mr. Deepak Shantaram Bhat.”

6. The family understanding finds clear support in the conduct of respondent No.5. In the Annual General Body Meeting held on 6 January 2015, respondent No.5 openly supported the petitioner’s request to transfer membership in his name. This statement was made before the society. It was recorded in the proceedings. There is no material to show that it was withdrawn or disputed at that time. Such conduct lends assurance to the earlier arrangement between the family members.

7. In my considered view, these two materials together clearly answer the description of a family arrangement as contemplated under Section 154B-13 of the MCS Act. The statute does not insist on any rigid form. It looks to the intention of the parties and their conduct. Once such an arrangement exists, the authorities under the Act have a limited role. They must give effect to it for the purpose of membership. They were, therefore, not justified in directing the name of respondent No.5 to be entered as a joint member contrary to that arrangement.

8. It is equally well settled that grant or transfer of membership neither creates nor extinguishes title in the property. Membership follows possession and enjoyment for the purpose of society affairs. It does not decide ownership. There is no dispute that no will exists. Both the petitioner and respondent No.5 continue as joint owners under the general law. The transfer of membership in

favour of the petitioner will remain subject to the final decision of the civil suit. Viewed in this light, the impugned order travels beyond the limits of the Act and cannot be sustained.

9. The rule is, therefore, made absolute in terms of prayer clause (a). There shall be no order as to costs.

10. It is clarified that the family arrangement referred to under Section 154B-13 of the MCS Act operates only for the limited purpose of entering a name as a member of the society. It does not regulate or decide the substantive civil rights of the parties in respect of the property.

11. The Civil Court shall decide the pending suit on its own merits. It shall do so independently. It shall not be influenced by any observation made in this order or by any observation made by the authorities under the MCS Act.

(AMIT BORKAR, J.)