AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16999 OF 2025

Kalpataru Aura Buildings No.1
ABCD Coop. Housing Society Ltd. … Petitioner

V/s.

The District Deputy Registrar,
Coop. Societies, Eastern Suburban
Officer & Ors. … Respondents

Ms. Priyanka Bhadrashete for the petitioner.

Mrs. M.S. Srivastava, AGP for respondent Nos.1 & 2-State.

Mr. Sharad T. Bhosale for respondent Nos.3 & 4.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 23, 2025

P.C.:

1. The writ petition questions the legality of an order passed by the revisional authority under the Maharashtra Cooperative Societies Act, 1960. The core issue is simple. The revisional authority entertained and decided a revision without first ensuring compliance with Section 154-2A of the Act. That provision mandates a pre-deposit as a condition precedent. The statute leaves no discretion. If the condition is not fulfilled, the authority lacks jurisdiction to proceed.

2. The Supreme Court, in *Arun B. Khanjire v. Ichalkaranji Urban Cooperative Bank Ltd. (2009) 2 SCC 187,* has explained the true nature of this requirement. The Court noticed that the litigant had moved an application containing all grounds of challenge, though not styled as a formal appeal. The Supreme Court held that the substance of the action mattered more than its form. Since the application effectively functioned as an appeal, it attracted Section 154-2A. The Court clearly found that the litigant had adopted an indirect method to avoid depositing fifty percent of the recoverable dues. Such avoidance was impermissible. The statutory condition could not be bypassed by clever drafting or procedural innovation.

3. The Supreme Court further clarified that even when an appeal is filed within limitation, it cannot be entertained or heard unless the mandatory pre-deposit is first made. The proceedings cannot be treated as suo motu when they are triggered by an application of the aggrieved party. The law draws a clear line. Jurisdiction to hear arises only after compliance with Section 154-2A. This interpretation flows directly from the language of the statute and has been consistently upheld.

4. Neither the revisional authority nor the State Government possesses any power to waive or dilute this statutory requirement. A Division Bench of this Court has already upheld the validity of Section 154-2A and has categorically ruled that compliance is mandatory before a revision is entertained. That view has been reaffirmed repeatedly by this Court and by the Supreme Court. Despite this settled position, the revisional authority entertained the respondent's revision and even remanded the matter, without recording compliance with Section 154-2A. The record discloses no evidence of deposit. This action stands in direct conflict with binding precedent.

5. It is stated that the revisional authority has since retired, and therefore no action is proposed against the individual officer. That fact does not cure the illegality. A Constitutional Court cannot condone defiance of a statutory mandate. The powers of the Divisional Joint Registrar flow from the statute. They are limited by it. If such mandatory conditions are ignored, discipline in cooperative administration will collapse. Uniform application of law is essential for the cooperative movement to function fairly and predictably. An exception made without authority becomes a precedent for disorder. Such illegality must be corrected firmly.

6. The grievances raised by respondent Nos. 3 and 4 regarding non-supply of details of dues or alleged charging of compound interest relate to the merits of the dispute. Those issues can certainly be examined by the competent authority. However, they can be examined only after the statutory pre-condition under Section 154-2A is strictly complied with. The law does not permit merits to be considered first and jurisdiction later.

7. The submission that, after remand, the first authority has passed a fresh order does not improve the respondents' case. A subsequent order cannot validate an order that was void at its inception. If the revisional authority lacked jurisdiction to remand, everything that followed rests on an invalid foundation.

8. Execution of the impugned order is relevant only at the interim stage. At the stage of final adjudication, the Court must examine legality and validity alone. In matters of remand, if the remand order is set aside, the consequential proceedings automatically lose their footing. The Court cannot sustain an outcome that flows from an unlawful order.

9. The Supreme Court, in *Haribhau Dagdu Tandale v. Industrial Cooperative Association Limited,* AIR 1997 SC 1475 while interpreting Sections 102 and 104 of the MCS Act, adopted the same principle. Once the foundational order is removed, the superstructure built upon it cannot survive. This is a rule of logic and law. Evidence on record supports its application here.

10. For this reason, once the impugned revisional order is set aside, the consequential order passed by the Registrar under Section 154B-29 also falls. It has no independent existence. Therefore, the contention that the petitioner must separately challenge the subsequent order by a fresh revision cannot be accepted.

11. If the respondents are able to demonstrate before the revisional authority, by producing material on record, that after issuance of the certificate they have deposited the amount in strict compliance with Section 154-2A, the revisional authority shall be free to consider the revision on its own merits, in accordance with law.

12. In view of the above discussion, the impugned order dated 3 March 2025 passed in Revision Application No. 225 of 2025 is quashed and set aside.

13. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)