

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3505 OF 2025

Prince Vaibhav Co-op. Hsg. Ltd. ... Petitioner
Vs.
Ranjana Kolhe ... Respondent

Mr. K. P. Anilkumar a/w. Mr. Amit Saple, Ms. Priyanka Kumar and Mr. Chinmay Apte for Petitioner.

Mr. Shrikant Rathi a/w. Ms. Bhairavi Waravdekar for Respondent.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 03, 2025

P.C. :

. By this writ petition, the petitioner, which is a co-operative society, has approached this Court, challenging the concurrent orders passed by the Co-operative Court and the Co-operative Appellate Court, Mumbai.

2. The respondent is a member of the petitioner society and she has instituted a dispute before the Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act, 1960, challenging a resolution passed by the petitioner society imposing a liability of five times the monthly maintenance charges for the period between 2017 to 2022 against the respondent. The petitioner society relies upon clause 169 of its bye-laws, on the ground that the respondent carried out commercial activities during the said period from the subject flat without any authorization from the society. According to the petitioner society, this is in flagrant violation of the said bye-law and therefore, the resolution passed against the respondent, after giving due notice to her, is fully justified.

3. The respondent, on the other hand, supports the orders passed by the Co-operative Court as well as the Co-operative Appellate Court, submitting that all the relevant documents and material were taken into consideration by the said Courts and therefore, no interference is warranted at the hands of this Court exercising writ jurisdiction.

4. This Court is of the opinion that the scope of exercising writ jurisdiction in such matters is narrow, simply for the reason that the petitioner society would have to demonstrate an apparent error in the approach adopted by the Co-operative Court as well as the Co-operative Appellate Court.

5. The dispute between the parties is still pending before the Co-operative Court and the question as to whether the respondent is liable to pay the aforesaid charges for the period between 2017 to 2022, is still at large. It is not as if the respondent would be running away from facing such liability upon the dispute being finally decided as she admittedly continues to be a member of the petitioner society.

6. A perusal of the impugned order dated 12.05.2023 passed by the Co-operative Court shows that relevant documents and material have been taken into consideration while allowing the prayer for interim relief made by the respondent. It is relevant to note that amongst the documents on record is a letter dated 02.09.2022 issued by the Brihanmumbai Municipal Corporation (BMC) to the secretary of the petitioner society, recording that a site inspection was conducted on 06.06.2022 when no commercial activity was found in the flat with which the respondent is concerned. The learned counsel for the petitioner intends to rely upon a subsequent communication dated 13.03.2023, copy of which is tendered for perusal of this Court to contend that the concerned authority of BMC itself recorded that the aforementioned letter dated 02.09.2022 ought not to be construed to

mean that there was no commercial activity being undertaken prior to the site inspection. But, this Court is of the opinion that the order dated 12.05.2023 passed by the Co-operative Court cannot be found fault with on the basis of the subsequent communication of the BMC. It is recorded in the said order that the respondent has indeed made out a strong *prima facie* case and that the aspects of balance of convenience as also irreparable loss being caused to the respondent have been made out by her to allow her application for interim relief.

7. A perusal of the impugned order dated 13.12.2023 passed by the Co-operative Appellate Court also shows that from paragraphs 33 to 36, the said Court has also taken into consideration all relevant circumstances to dismiss the appeal and to uphold the order passed by the Co-operative Court. When two Courts have concurrently held in favour of the respondent, upon taking into consideration all relevant material, this Court would not interfere with the impugned orders. It is not as if the petitioner society has been able to place on record material to indicate any manufacturing activity in the flat in question, in fact, the order of the Co-operative Appellate Court even records that there was no material to indicate any disturbance being caused to the lives of members of the petitioner society even during the period for which the petitioner society is claiming the aforesaid amount from the respondent.

8. As noted hereinabove, this is not a case where the petitioner society would find it difficult / impossible to recover the amount in the event the competent co-operative court holds against the respondent.

9. In view of the above, this Court is of the opinion that the petitioner society has not been able to make out a case for exercising writ jurisdiction to interfere with the concurrent orders passed by the two Courts below. Hence, the writ petition is dismissed.

10. Nonetheless, in the facts of the present case, a suitable direction to the Co-operative Court for expediting the proceedings is warranted. Hence, the Co-operative Court is directed to decide the pending dispute between the petitioner society and the respondent as expeditiously as possible and in any case within nine months from today.

11. Needless to say, the observations made by the Co-operative Court and the Co-operative Appellate Court in the impugned orders shall not influence the final decision in the pending dispute.

(MANISH PITALE, J.)

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