

Kartikeya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.4083 OF 2024

Irfan Abdul Aziz Ansari ...Petitioner
Versus
The Divisional Joint Registrar, Co-operative ...Respondents
Society & Ors.

Mr. Fakruddin Khan a/w Mr. Prashant Malik, for the Petitioner.
Mr. Manish Upadhye, AGP, for the Respondent Nos.1 and 2-State.

**CORAM: SUMAN SHYAM &
MANJUSHA DESHPANDE, JJ.**

DATED: 9TH SEPTEMBER 2025.

Order :- (PER MANJUSHA DESHPANDE, J.)

1. The Petitioner, who is a member of Respondent No.3-Swadhinata Co-operative Housing Society Limited, has approached this Court, making a grievance that the Petitioner as well as the other Members of the Society, have from time to time addressed oral as well as written complaints to the Chairman, Secretary and Treasurer of the Society, making following grievances :

“(i) Illegal Encroachment, Construction and opening of Door in the Common Area of Society by Chairman, Secretary, treasurer and Committee Member of Society.

(ii) Published Undated Notice and Service of 11 days back dated Notice.

(iii) *On Complaint Abusing and life threatening calls with ultimatum of 7 days from SohailKazii i.e Brother of Secretary and Son of Treasurer against which Police registered N.C.*

(iv) *Ignoring the Application of 8 members of the Society for calling General Body Meeting in the Society.*

(v) *Tempering and Manipulating the Minutes of Meeting for their benefits and Not providing Copy of documents and minutes of meetings even on Written Application by Petitioner.*

(vi) *Forcefully Sticking 8 pages Water Bill of Entire Society on main door of the Petitioner flat for Harassment to the Petitioner tenant who was 6 months Pregnant and same remove after intervention of Police.*

(vii) *Sent vague Notice of Defamation with malafied intention by wrong interpretation of only one word out of whole sentence "Massage" instate of "Message" which was typical mistake on What's App group of the Society, Petitioner sent reply to vague Notice through his advocate.*

(viii) *Stop sending correspondence i.e Notice of Meetings, Maintenance Bills and other important information about society as other flat owners are getting and imposing interest illegally on uninformed dues and not issuing the receipt Maintenance paid only to the Petitioner.*

(ix) *Deliberately ignoring illegal Quorum of Managing Committee and taking decision, with malafied intention for personal gain inspite of specific reports of the Inspection Officer appointed u/s 89 (a) MCS Act 1960."*

2. Due to the above mentioned arbitrary decisions and illegal activities, three Members of the Managing Committee, including the Petitioner, had resigned and therefore, the Quorum of the Managing Committee was incomplete. In spite of appointment of Administrator by the Deputy Registrar for conducting the election of the Managing Committee, the Chairman, Secretary and

Treasurer have appointed three new Committee Members, contrary to the provisions of law.

3. It is submitted by the learned Advocate for the Petitioner that in spite of addressing their grievances by a written complaint to Respondent Nos.1 and 2, the complaint has not been decided till date. The Managing Committee appointed by the Chairman, Secretary and Treasurer is conducting the business of the Society in breach of the bye-laws of the Society.

4. After much persuasion, Respondent No.2 had issued a notice and called for an explanation from Respondent No.3, but Respondent No.3 did not file any reply to the said notice. Pursuant to the order passed by Respondent No.2, a report under Section 87(a) of the Maharashtra Co-operative Societies Act, 1960 (**"MCS Act"**), has been submitted. In spite of such report being submitted, Respondent No.2 has not yet appointed an Administrator. On the aforementioned background, the Petitioner has approached this Court.

5. During the course of hearing, the learned AGP has made a statement that in fact, an Administrator has been appointed for managing the affairs of Respondent No.3-Society. Upon perusal of the complaint dated 07.12.2023, addressed to Respondent No.2, it is evident that the Petitioner has raised various issues before Respondent No.2 in his written complaint. Though one of the issues about appointment of an Administrator seems to have been addressed by appointing the Administrator, the grievance of the Petitioner about rest of the issues remains to be redressed.

6. In view thereof, in our opinion, it would be appropriate to direct Respondent No.2 to decide the complaint filed by the Petitioner in accordance with law. If upon perusal of the complaint, the Respondent No.2, is of the opinion that the issues raised by the Petitioner falls within the jurisdiction of the Administrator, the Respondent No.2 shall forward the complaint to the Administrator authorizing him to decide it within a period of 6 months from the date of this order.

7. Needless to state that, while deciding the present Writ Petition, we have not expressed any opinion on the merits of the matter. The Respondent No.2 and/or Administrator, as the case may be, shall decide the complaint on its own merits, after providing reasonable opportunity of hearing to the interested parties.

8. With the aforesaid directions, the Writ Petition stands disposed of.

(MANJUSHA DESHPANDE, J.)

(SUMAN SHYAM, J.)