IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13084 OF 2026

Dolly Satish Kapoor ....Petitioner
V/S
The Divisional Joint Registrar
Co-operative Societies & Ors. ....Respondents

WITH
WRIT PETITION NO.13085 OF 2026

Saroj Arvind Modi & Anr. ....Petitioners
V/S
The Divisional Joint Registrar
Co-operative Societies & Ors. ....Respondents

Mr. Akshay Doctor with Mr. Devansh Bheda, Ms. Dhyan Shah i/b Purnand & Co. *for the Petitioners.*
Mr. Sandesh Deshpande with Ms. Janhavi Chaudhari *for Respondent No.3.*
Mr. P.V. Nelson-Rajan, AGP *for Respondent Nos.1 and 2/State in WP 13084 of 2026.*
Ms. S.A. Prabhune, AGP *for Respondent Nos.1 and 2/State in WP 13085 of 2026.*

CORAM : SANDEEP V. MARNE, J.
DATE : 05 OCTOBER 2026.

P.C.:

1. These Petitions challenge orders dated 4 November 2025 passed by the Divisional Joint Registrar dismissing the Revisions preferred by the Petitioners and confirming the orders dated 28 March 2024 passed by the Deputy Registrar. By orders dated 28 March 2024, the Deputy Registrar directed removal of names of Petitioners from membership of

the Society under provisions of Section 154B-9 of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**).

2. I have heard Mr. Doctor, the learned counsel appearing for the Petitioners, Mr. Deshpande, the learned counsel appearing for Respondent No.3, Mr. Nelson-Rajan, the learned AGP appearing for the Respondent Nos.1 and 2/State in Writ Petition No.13084 of 2026 and Ms. Prabhune, the learned AGP appearing for the Respondent Nos.1 and 2/State in Writ Petition No.13085 of 2026.

3. In the present case, the transaction of purchase of the flat by Petitioner-Dolly Satish Kapoor has taken place on 5 November 1982. The transaction of purchase of flat by Petitioner-Saroj Arvind Modi has taken place on 1 February 1999. Provisions of Chapter XIII-B are introduced in the MCS Act with effect from 9 March 2019. After introduction of Chapter XIII-B to the MCS Act Section 154B-12 of the MCS Act mandates that membership in the Society can be transferred only through a registered document.

4. However, before introduction of Chapter XIII-B of the MCS Act, provisions of Section 41 of the MCS Act were applicable under which it was not mandatory to compulsorily register instructment relating to transfer of shares in the Society. The Full Bench of the Gujarat High Court in ***Mulshanker Kunverji Gor & Ors. vs. Juvansinhji Shivubha Jadeja***[1] as followed by this Court in ***Usha Arvind Dongre vs. Satish Raghvendra Wagh & Ors.***,[2] has held that in a Tenant Co-partnership

1 1979 SCC OnLine Guj 54
2 1990 Mh.L.J. 306

Society where the Society is owner of both the land and the structure, transfer of shares does not require registration of instrument of transfer. Similar view is taken by Division Bench of this Court in ***Sadbuddhi Brahmesh Wagh & Ors. vs. Satish Raghvendra Wagh & Ors***.[3].

5. In ***The Salsette Catholic Cooperative Housing Society Ltd. vs. The Divisional Joint Registrar & Ors***,[4] this Court has held in paragraphs 13 to 15 as under:

> "13) So far as the aspect of registration is concerned, Section 41 of the MCS Act provides for exemption from compulsory registration of instruments relating to shares. Section 41 of the MCS Act provides thus:
>
> > **41. Exemption from compulsory registration of instruments relating to shares and debentures of society.—**
> >
> > Nothing in clauses (b) and (c) of sub-section (1), of section 17, of the Indian Registration Act, 1908, shall apply-
> >
> > (a) to any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immovable property ; or
> >
> > (b) to any debentures issued by any society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except insofar as it entitles the bolder to the security afforded by a registered instrument whereby, the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property, or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or
> >
> > (c) to any endorsement upon, or transfer of, any debentures issued by any society
>
> 14) However, Chapter XIII-B has been added to the MCS Act w.e.f. 9 March 2019 and provisions of Section 154B-12 now require registered document for the purpose of transfer of shares, right, title and interest in the property of the society. Section 154B-12 of the MCS Act provides thus:
>
> > **154B-12. Transfer of share, right, title and interests:**
> >
> > A Member may transfer his share, right, title and interest of his property in the society by way of registered document by following the due procedure as provided in the rules or bye-laws

3 2004 (1) Mh.L.J. 890

4 WP No.9475 of 2026, decided on 30 September 2026.

> 15) However, the transaction in the present case has occurred on 27 October 2004, when provisions of Section 154B-12 did not find place in the MCS Act and transfer of shares was governed by the provisions of Section 41 of the MCS Act. Mr. Anturkar has relied upon judgment of Gujarat High Court in ***Mulshanker Kunverji Gor*** (supra) and judgments of this Court in ***Usha Arvind Dongre*** (supra) and ***Sadbuddhi Brahmesh Wagh*** (supra) in support of his contention that registration is not compulsory for purchase of shares in a tenant co-partnership society since transfer of shares does not include transfer of interest in the property. Petitioner has not clarified in the petition as to whether it is a tenant-co-ownership society or tenant-co-partnership society. The objection of absence of registration is not specifically raised in the Petition. ... ...”

6. In the present case Respondent No.3 is undoubtedly a Tenant Co-partnership Society. The transaction of purchase of flats by the Petitioners has occurred on 5 November 1982 and on 1 February 1999. Petitioners have been paying maintenance dues to the Society for the last several decades. It is therefore too iniquitous to throw the Petitioners out of the Society on the ground that the instruments through which they purchased their flats are not registered. Considering the unique facts and circumstances of the case, I am of the view that the impugned orders passed by the Deputy Registrar and by the Divisional Joint Registrar are unsustainable.

7. Petitions thus succeed. Order dated 28 March 2024 passed by the Deputy Registrar and order dated 4 November 2025 passed by the Divisional Joint Registrar are set aside. Writ Petitions are allowed in above terms. There shall be no order as to costs.

(SANDEEP V. MARNE, J.)

Signed by: Sudarshan R. Kakkam
Designation: PS To Honourable Judge
Date: 07/10/2026 11:11:08