IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10373 OF 2026

Fortune Garden Co Op Hsg Soc Ltd Thr Its Chairman ...Petitioner

V/s.

The Divisional Joint Registrar and Ors ...Respondents

Dr. Uday P. Warunjikar *i/b Mr Bhushan U. Deshmukh for Petitioner.*
Mr. Satish Muley *with Mr. Mosin Naik with Aaron Dias for Respondent No. 5.*
Mr. S. H. Kankal, *AGP for Respondent-State.*

CORAM: SANDEEP V. MARNE, J.

DATED: 17 AUGUST 2026.

P.C.:

1) By this Petition, Petitioner has challenged order dated 29 July 2026 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai (**Divisional Joint Registrar**) allowing Appeal No. 138 of 2026 filed by the 34 Appellants, who are contesting Respondents in the present Petition. The Divisional Joint Registrar has set aside order dated 20 April 2026 passed by the District Deputy Registrar, Co-operative Societies, Mumbai directing registration of a Co-operative Housing Society. The Divisional Joint Registrar has remanded the proceedings to the District Deputy Registrar for a fresh consideration and decision on merits in accordance with law.

2) I have heard Dr. Warunjikar, the learned counsel appearing for the Petitioner, Mr. Muley the learned counsel appearing for the Respondent No. 5 and Mr. Kankal, the learned AGP appearing for Respondent-State.

3) It appears that the building is constructed by the developer by redeveloping the old structures. The building comprises of rehab component tenements as well as sale component flatss. It appears that there are two factions in the building. The society is formed at the behest of the faction representing sale component owners. It appears that rehab component owners are opposed to formation of the society of the sale component owners.

4) Perusal of the impugned order passed by the Divisional Joint Registrar would indicate that he has recorded following findings:-

> As As per the provision of section 154B-2, out of the total flats/units in the building, more than 51% of the members of the registered agreement have to join the registration proposal. However, in the present case, it appears that out of 163 member's 87 members of the society had opposed the formation and registration of the proposed society. Therefore, the provisions of section 154B-2 are being not complied.

5) The above findings recorded by the Divisional Joint Registrar appears to be perverse to the core. According to Mr. Muley there are 78 rehab component tenements in the building. This is disputed by Dr. Warunjikar, who submits that there are only 70 rehab tenements in the building. Even if the contention of Mr. Muley is accepted that there are 78 rehab tenaments in the building, it is beyond comprehension as to

how 87 flat owners would have opposed formation of the society by the Petitioners. Mr. Muley places reliance on a notice attached at Exh-C to the Appeal filed before the Divisional Joint Registrar to demonstrate signatures of 87 flat owners. However, upon being queried as to whether any sale component owner has joined the opponents, there appears to be no clarity. There also appears to be some discrepancies in the document being notice dated 29 November 2025. To illustrate, Serial Nos. 48 and 50 are blank. Similarly, at Serial Nos. 42 and 43, same person has apparently signed. *Prima facie* therefore it becomes difficult to believe there are 87 objectors to the formation of the society. On the other hand, it is seen that the proposal submitted for registration of the society had signatures of 86 flats owners. Mr. Muley has submitted that 10 out of the said 86 signatures are put by the same person. However, the Divisional Joint Registrar has not recorded any such finding. He has blindly accepted the notice dated 29 November 2025, which itself appears to be a suspicious document.

6) In my view, therefore, the Divisional Joint Registrar has not conducted a proper inquiry into the Appeal. The inquiry conducted by the Divisional Joint Registrar appears to be perfunctory. In that view of the matter, the order passed by the Divisional Joint Registrar is unsustainable and liable to be set aside. The proceedings deserve to be remanded to the Divisional Joint Registrar for fresh adjudication.

7) At this stage, Mr. Muley submits that his clients have already preferred a revision against order dated 29 July 2026 passed by the Divisional Joint Registrar alleging non-grant of hearing. Since the order

of the Divisional Joint Registrar is being set aside by remanding the proceedings, the revision would be rendered infructous. This way even the contesting Respondents would receive opportunity of hearing

8) I accordingly proceed to pass the following order:-

(i) Order dated 29 July 2026 passed by the Divisional Joint Registrar is set aside. Appeal No. 138 of 2026 is remanded to the Divisional Joint Registrar for decision afresh.

(ii) The Divisional Joint Registrar shall accord due opportunity of hearing to the rival parties before adjudicating the Appeal afresh.

9) All contentions of parties on merits are expressly kept open.

10) Writ Petition is accordingly partly allowed and **disposed of**. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

Signed by: Renuka S Thakur
Designation: PA To Honourable Judge
Date: 18/08/2026 14:08:07