IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13669 OF 2026

Sunil Dhondiram Kankal And Anr. **... Petitioners**

Versus

Divisional Jt. Registrar Of Co-operative Societies, Pune Division, Pune And Ors. **... Respondents**

Mr. Harshal Parab *for the Petitioners.*

Mr. Dinesh Bhosale *a/w Mr. Ramchandra Vasekar for Respondent No.3-Society.*

Mr. P. G. Sawant, *AGP for Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 13 OCTOBER 2026.

P.C. :

1) The Petitioners are aggrieved by Order dated 24 August 2026 passed by the Deputy Registrar by which the application filed by Respondent No.2-Society seeking their expulsion has been allowed and the Deputy Registrar has granted approval to the resolution adopted by the Society in its Special General Body Meeting held on 8 June 2025. Petitioners are accordingly expelled from the Society.

2) Petitioners have preferred an appeal before the Divisional Joint Registrar against the Order dated 24 August 2026. It is contended that though the Divisional Joint Registrar has heard the application for

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interim stay on 17 September 2026, no order is pronounced till date. It is submitted that, the Society in the mean time conducted its Annual General Body Meeting on 20 September 2026 denying an opportunity to the Petitioners to participate and vote in the said meeting.

3) The learned counsel appearing for Petitioners submits that there are total 45 members in the Society and to constitute 3/4 majority, it is necessary that at least 34 members had voted in support of proposal for expulsion. He submits that only 24 members have voted in support of expulsion proposal. He draws the attention of this Court to Order passed in ***Dr. Chandrakant Shripati Pokharkar Vs. The Minister for Cooperation, of the State of Maharashtra & Ors***.[1] wherein this Court has held in Paragraph Nos. 7 and 8 as under:

> **7.** The above decision makes the legal position clear. The expression "three-fourths of the members entitled to vote and who are present in the meeting" must be read conjunctively. The Division Bench has consciously used the word "and" to signify that the requirement of three-fourths majority applies to the total members entitled to vote, not merely to those present. In other words, the Legislature intended to ensure that expulsion of a member should reflect the collective will of an overwhelming majority of the society, and not of a small section of members who happen to be present at a meeting. This interpretation safeguards against arbitrary or vindictive action and upholds the democratic spirit of cooperative functioning.
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> **8.** Applying this settled interpretation to the present case, the total membership of the society was 1,334, of which only 270 members attended the meeting. Three-fourths of 1,334 would amount to 1,000 members approximately. The attendance of 270 members falls far short of this statutory threshold. Therefore, the resolution approving the expulsion of the petitioner cannot be said to have been passed in accordance with Section 35 of the MCS Act. The Authorities below failed to appreciate this statutory requirement and mechanically approved the expulsion without examining whether the numerical condition under Section 35 was satisfied. The approval thus suffers from legal infirmity and cannot be sustained.

1 Writ Petition No.9256 of 2022 decided on 9 October 2025

Relying on the judgment of this Court in ***Dr. Chandrakant Shripati Pokharkar*** (supra), it is contended on behalf of the Petitioners that 3/4 majority is required to be computed by taking into consideration all the members who are entitled to vote and not just the members who are present and entitled to vote.

4) Since appeal is already pending before the Divisional Joint Registrar, in my view, it is necessary that the appeal itself is heard in an expeditious manner rather than pronouncing an order on application for interim stay. Till the decision of the appeal, it would be appropriate to stay the order dated 24 August 2026. In view of observations made by this Court in paragraph Nos. 7 and 8 of the order in ***Dr. Chandrakant Shripati Pokharkar*** (supra).

5) Accordingly, I proceed to pass the following order:

ORDER

i) The Divisional Joint Registrar shall decide Appeal No. 118 of 2026 filed by the Petitioners as expeditiously as possible, preferably within a period of three months.

ii) Parties shall appear before the Appellate Authority along with copy of this order downloaded from the website of this Court on 21 October 2026 and shall apply for fixation of date of hearing of the Appeal.

iii) Till the Divisional Joint Registrar decides the Appeal, Order dated 24 August 2026 shall remain stayed.

iv) The Divisional Joint Registrar shall decide the Appeal uninfluenced by the observations made by this Court in the present order.

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

7) With the above directions, the Writ Petition is **disposed of**.

[SANDEEP V. MARNE, J.]