**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

SAYALI DEEPAK UPASANI

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**WRIT PETITION NO. 16287 OF 2024**

New Ideal Co-operative Housing Society Ltd … Petitioner

**V/s.**

The District Deputy Registrar, Co-op Societies and Others … Respondents

Ms. Niyati Sontakke, for Petitioner.

Ms. Shefali Bhasin, for Respondent no. 3.

Mr. Y. D. Patil, AGP for State-Respondent nos. 1 and 2.

**CORAM : AMIT BORKAR, J.**

**DATED : FEBRUARY 24, 2026**

**P.C.:**

**1.** Rule. Rule made returnable forthwith.

**2.** The present petition arises from an order passed by the Divisional Joint Registrar by which the rate of interest charged by the Housing Society was reduced from 21% to 9%.

**3.** A careful reading of the impugned order shows that the reasons assigned for such reduction are extremely brief. The Registrar appears to have proceeded on the footing that the society had issued a consolidated bill covering a period of about eight weeks and, therefore, the interest charged was excessive. The order further contains a general observation that the society was charging unjustified interest and that the amount belonging to respondent no. 2 had been utilized without authority. However, the order does not explain how the issuance of a consolidated bill by itself makes the contractual or statutory rate of interest excessive. Nor does it record any clear finding that the levy of interest was contrary to the bye laws, contrary to a resolution of the general body, or otherwise prohibited under the governing provisions. A quasi judicial authority is expected to record reasons that show a clear link between the material on record and the conclusion reached. In the absence of such reasoning, the deduction of the rate of interest appears to be based more on assumption than on a legal foundation.

**4.** It is necessary to keep in mind the nature of the amount on which interest was directed to be paid. The interest liability arises only after a fixed amount is held to be due from respondent no. 3. Once such principal dues are determined, the next question is not one of general fairness but of legal entitlement. The Registrar, while considering the rate of interest, is required to examine whether the rate claimed by the society flows from the registered bye laws or from a valid resolution passed by the general body, depending on the defence taken by the member. In the present case, the consolidated reply and written submissions filed by respondent no. 3 show that the principal defence was that respondent no. 3 was not at fault and, therefore, interest should not be charged at all. Significantly, there was no specific challenge to the rate of 21% as being contrary to the bye laws or unsupported by any resolution. When a member does not dispute the source of authority for charging a particular rate, the adjudicating authority cannot substitute its own rate merely on equitable considerations. The power of the Registrar is supervisory and statutory. It is not an unrestricted power to rewrite financial terms accepted by the society. Further, before this Court, the society has placed on record the general body resolution dated 12th September 2019 authorising levy of interest at the rate of 21%. This document shows that the rate was not arbitrary but had institutional backing through the decision of the collective body of members. In such circumstances, reduction of the rate without examining the validity or applicability of that resolution cannot be sustained.

**5.** At the stage of hearing, learned Advocate appearing for respondent no. 3 sought time to file a further reply. The request, however, cannot alter the scope of scrutiny before this Court. The society has challenged the order of the Divisional Joint Registrar on the ground that the reduction of interest lacks legal basis. Therefore, the correctness of the impugned order has to be tested on the reasons actually recorded in that order. It is settled that an order must stand or fall on its own reasoning and cannot be supported later by new explanations or additional justifications offered during litigation. Once the dues payable by a member are crystallized, the interest component has to be determined strictly in accordance with the authority available to the society under its bye laws or the resolution passed by the general body. The Registrar could not have ignored this statutory framework and substituted a different rate merely because a consolidated bill was issued or because a general impression was formed that the interest was high. Such reasoning is not traceable to any provision of the Act, the bye laws, or the governing resolution. Consequently, the reduction of interest from 21% to 9% cannot be sustained in law. The authorities functioning under the Act were required to apply the rate authorised under the governing documents and had no jurisdiction to reduce it in the absence of a specific legal infirmity.

**6.** Hence, the petition deserves to be allowed.

**7.** Rule is made absolute in terms of prayer clause ‘b’.

**(AMIT BORKAR, J.)**