

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18103 OF 2024

Welcome Enterprises
Through Its Proprietor

... Petitioner

V/s.

Asha Nabar & Ors.

... Respondents

WITH
INTERIM APPLICATION NO.2293 OF 2026
IN
WRIT PETITION NO. 18103 OF 2024

Welcome Enterprises
Through Its Proprietor

... Applicant

In the matter between:

Welcome Enterprises
Through Its Proprietor

... Petitioner

V/s.

Asha Nabar & Ors.

... Respondents

Mr. Kailash Dewal, Mr. Mohit Bhansali, for the
Petitioner & for Applicant in IA.

Mr. A. Y. Sakhare, Sr. Advocate i/b Mr. Rohan Mirpur, for
Respondent No. 1.

Dr. Dhruti Kapadia, AGP, for the State – Respondent
No.2.

CORAM : AMIT BORKAR, J.

DATED : APRIL 27, 2026

P.C.:

1. The first objection raised in the present petition is that the
matter pertains to the Division Bench. However, the Division Bench

of this Court, by order dated 24 March 2026, has categorically held that the present matter falls within the assignment of the Single Judge Bench. The said order of the Division Bench is binding on this Court. Hence, the present petition is required to be considered and decided by the Single Judge Bench.

2. The principal challenge in the present petition is to the order passed by the State Government in exercise of powers under Section 157 of the Maharashtra Co-operative Societies Act, 1960, whereby exemption has been granted to the society from certain provisions of the Act.

3. The dispute between the parties arises out of registration of a housing society. The petitioner is a promoter within the meaning of Section 2(c) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("MOFA"). Section 10 of MOFA casts an obligation on the promoter to take steps for registration of an organisation of flat purchasers within four months from the date when the minimum number of purchasers have taken possession.

4. Section 154B-2, as inserted/amended in 2019, provides that a co-operative housing society shall not be registered unless at least five persons belonging to different families join the proposal, or alternatively, where at least 51% of the total flat purchasers join the registration proposal, it may be processed under the provisions of the Act.

5. It is not in dispute that in the present case, a total of 17 units have been sold. According to the respondent society, 13 persons

have signed the registration proposal. However, according to the petitioner/promoter, signatures of certain deceased persons have been used by unknown persons, and in respect of other purchasers, there is no valid authorization.

6. In these circumstances, without entering into the merits of the controversy, it would be appropriate to clarify that the Revisional Authority shall decide the revision application specifically on the aspect of compliance of Section 154B-2 of the MCS Act. Chapter VIII-B provides a separate framework for co-operative housing societies. With this clarification, it is not necessary to adjudicate upon the validity of the order passed under Section 157 of the MCS Act.

7. Accordingly, the petition is disposed of with a direction to the Revisional Authority to decide the proposal of the respondents in accordance with Chapter VIII-B of the MCS Act, without being influenced by the order passed under Section 157 of the Act.

8. In view of disposal of the writ petition, the interim application does not survive and the same stands disposed of.

(AMIT BORKAR, J.)