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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.545 OF 2026

Khimjibhai Harjivanbhai Patadia

... Petitioner

V/s.

State of Maharashtra and Others

... Respondents

Mr. R. N. Kachave, for Petitioner.

Mr. Hamid D. Mulla, AGP for State- Respondent nos.
1, 3 and 4.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 25, 2026

PC.:

1. The petitioner has questioned the legality of the order dated 08 August 2024 passed by the Revisional Authority, by which the authority confirmed the certificate issued on 08 April 2021 under section 154B(29) of the Maharashtra Co-operative Societies Act. The challenge is essentially directed against the recovery mechanism adopted by the society and affirmed by the authorities under the Act. The Court is therefore required to examine whether the statutory preconditions for issuance of such a certificate were satisfied and whether the Revisional Authority committed any error in upholding the same.

2. The main submission advanced on behalf of the petitioner is that the petitioner is not a member of respondent no. 2 housing society. On this basis, it is argued that proceedings under section 154B(29) are not maintainable against him. The argument proceeds on the assumption that only a registered member can be subjected to recovery under this provision. The Court must therefore determine whether membership alone governs liability, or whether the statute also contemplates recovery from a person who is otherwise liable to pay society dues.

3. For the purpose of adjudicating the said issue, it is necessary to set out section 154B(29) of the MCS Act, which reads as under:-

“154B-29. Recovery of certain sums and arrears due to housing societies as arrears of land revenue.—

(1) Notwithstanding anything contained in sections 91, 93 and 98, on an application made by a housing society for the recovery of its dues or for the recovery of its repairs and maintenance, construction cost and service charges, and on the housing society concerned furnishing a statement of accounts and any other documents as may be prescribed, in respect of the arrears, the Registrar may, after making such inquiries as he deems fit, grant a certificate for the recovery of the amount stated therein, to be due as arrears.

Explanation.— For the purposes of this sub-section, the expression “repairs and maintenance and service charges” means such charges as are so specified in the by-laws of the concerned housing society.

4. Moreover, it is necessary to set out the definition of dues under section 154B-1(12) of the MCS Act, which reads as under:-

154B-1 “(12) ‘dues’ means the amount payable by a Member or flat owner to the society and demanded by the society by issuing bill or notice in writing and such demand is based on the provisions of this Act, rules and bye-laws of the society.”

5. For proper adjudication, it becomes necessary to examine the language and scheme of section 154B(29) of the Act. The provision creates a special mechanism for recovery of dues, repairs and maintenance charges, construction costs and service charges payable to a housing society. It authorises the Registrar, upon an application by the society supported by statement of accounts and prescribed documents, to hold such inquiry as deemed fit and thereafter grant a recovery certificate. The effect of such a certificate is that the amount can be recovered as arrears of land revenue. The legislative intent is clear. The provision aims to provide a summary and effective remedy to housing societies for recovery of legitimate dues, without compelling them to enter into prolonged adjudicatory proceedings under other provisions.

6. Equally relevant is the definition of the expression “dues” under section 154B-1(12). The definition states that dues mean amounts payable by a member or flat owner to the society, which are demanded through a written bill or notice and which are founded on the Act, rules and bye-laws. The inclusion of the words “member or flat owner” is significant. The statute does not confine liability only to persons formally enrolled as members. It recognises that in housing societies, financial obligations may attach to the ownership of the flat itself. The demand must,

however, be lawful, supported by the provisions and properly communicated.

7. When section 154B(29) is read together with section 154B-1(12), the scheme becomes reasonably clear. The recovery mechanism is triggered when a lawful demand is raised by the society for amounts payable under the Act and bye-laws. Such liability may arise either from membership or from ownership of the flat. In a housing society, maintenance charges and related dues are linked to the property and the benefits derived from common facilities. Therefore, a flat owner cannot avoid liability merely on the ground that his name does not appear as a registered member, if the demand is otherwise lawful and in accordance with the bye-laws. This interpretation flows from the express statutory language and from the practical functioning of housing societies, where obligations follow occupation and ownership rather than formal membership alone.

8. The learned Advocate for the petitioner relied upon an unreported judgment of this Court in *Writ Petition No. 2479 of 2014*. According to him, the Court had set aside recovery proceedings initiated against non-members. However, a careful reading of that judgment, particularly paragraph 8, shows that the Court was dealing with proceedings under section 101 and not with the special provisions introduced under Chapter VIII-B. The reasoning in that decision turned on the scope of provisions then applicable and the absence of statutory foundation similar to section 154B(29). The judgment itself clarifies that Chapter VIII-B

was not attracted in that case. The precedent therefore rests on a different statutory context and cannot be mechanically applied to the present matter.

9. In the present case, the recovery certificate has been issued specifically under section 154B(29), which forms part of Chapter VIII-B. The provision expressly covers dues payable by a member or flat owner and provides a separate mechanism for recovery. The reliance placed on the earlier judgment is therefore misplaced. Once this distinction is recognised, the challenge raised by the petitioner does not survive. No other substantial ground has been urged to demonstrate illegality, procedural irregularity, or lack of jurisdiction in the orders passed by the authorities below. In these circumstances, the petition lacks merit.

10. The challenge to the order of the Revisional Authority fails, and the petition stands disposed of accordingly.

(AMIT BORKAR, J.)