Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9075 OF 2025

Suhas Jagannath Mhaskar and Another … Petitioners
V/s.
The State of Maharashtra and Others … Respondents

Mr. Swaraj Jadhav with Shruti Kumbhar with Mr. Vikas Kumbhar, for Petitioner.

Mr. S. L. Babar, AGP for State-Respondent Nos. 1 to 4.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 29, 2026

P.C.:

1. By the present petition under Articles 226 and 227 of the Constitution of India, the petitioners, who are members of the managing committee of a cooperative housing society, have called in question the legality and correctness of the judgment and orders passed by the authorities under the Maharashtra Cooperative Societies Act, 1960. The impugned action proceeds on the footing that the managing committee committed statutory defaults warranting initiation of proceedings under Section 75(5) and the consequential exercise of powers under Section 77A of the Act.

2. The petitioners contend that the authorities acted on an erroneous understanding of facts and misapplied the statutory provisions, thereby invoking coercive powers in a situation where the basic preconditions for such action were absent.

3. The managing committee, of which the petitioners are members, came to be elected in the year 2023. During its tenure, a show cause notice dated 23rd April, 2024 was issued by respondent no. 3 alleging non-compliance with Section 75(5) of the Act. The crux of the allegation was that the society had failed to place the audit report for the year 2022–2023 and the budget for the ensuing year before the general body, on the premise that the Annual General Meeting for the year 2022–2023 was not held in accordance with law. On the strength of this alleged default, the authorities proceeded to initiate statutory action which carries serious civil consequences for an elected managing committee.

4. In response to the show cause notice, the petitioners placed on record their reply along with contemporaneous documents, including the agenda of the Annual General Meeting dated 9th September, 2023 and the minutes of the Annual General Meeting held on 24th September, 2023. A plain reading of these documents demonstrates that the statutory requirements were in fact complied with. Resolution No. 3 of the said Annual General Meeting clearly records that the audit report for the year 2022–

2023 was placed before the general body and taken on record. The agenda circulated for the meeting also specifically included the item relating to consideration of the budget for the next financial year. Despite such material being placed before them, the authorities recorded a finding of non-compliance of Section 75 of the Act. This finding is contrary to the record and cannot be sustained.

5. On a careful perusal of the minutes and agenda, I am satisfied that the essential obligations under Section 75 were duly discharged by the managing committee. The conclusion drawn by the authorities rests on an incorrect appreciation of facts and ignores material evidence produced by the petitioners.

6. Once it is held that there was no breach of Section 75, the very foundation for invoking Section 75(5) disappears. Action under Section 75(5) presupposes an actual and established failure to comply with the statutory mandate. In the absence of such failure, the exercise of power becomes arbitrary. Consequently, when the primary order under Section 75(5) is found to be unsustainable, the consequential order passed under Section 77A cannot survive independently. The latter is wholly dependent on the former and falls with it.

7. Accordingly, the impugned order under Section 75(5) is set aside, and as a necessary corollary, the consequential order under Section 77A is also set aside.

8. Rule is, therefore, made absolute in terms of prayer clauses 'A' and 'B'.

9. No order as to costs.

(AMIT BORKAR, J.)