

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13263 OF 2025

Ekta Bhoomi Classic Cooperative
Housing Society Ltd.

... Petitioner

V/s.

Divisional Joint Registrar,
Cooperative Societies Mumbai & Ors.

... Respondents

Mr. Shrey Fatterpekar, Seema R Pandey a/w Smit K.
Nagda, for the Petitioner.

Ms. Savita Prabhune, for the State – Respondent Nos.1
& 2.

Mr. Shreepad Murthy a/w Mr. Sahil Wagh i/b Abhishek
Patil, for Respondent Nos.4 & 5.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 5, 2026

P.C.:

1. **Rule.** Rule made returnable forthwith.
2. By this writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner housing society has questioned the exercise of powers by the authorities under Section 154B-27(1) read with Sections 79(1) and 79(2) of the Maharashtra Cooperative Societies Act, 1960. By the impugned action, the authorities have directed the society to withdraw the retrospective levy of water charges, to issue a debit note of Rs.3,27,869/-, and further to raise a supplementary water bill in terms of the first

operative part of the order dated 25 May 2023.

3. The case of the petitioner society is that Section 154B-27 of the MCS Act does not confer power on the Registrar to decide substantive rights of the parties. According to the society, the provision operates only as a machinery provision to enforce obligations already arising under the Act, the Rules, or the bye-laws. On the other hand, the member contends that the water charges levied by the society are contrary to the express provisions of the society's bye-laws. It is therefore submitted that the authorities were justified in directing the society to align its demand of water charges with bye-law No.62(2). On this premise, the member asserts that the exercise of power by the authorities is legal and within jurisdiction.

4. To properly examine the rival submissions, it is necessary to refer to Section 154B-27 of the MCS Act. The said provision reads as follows:

“154B-27. Obligation of society to take action and Registrar’s powers to enforce.— (1) If any society is required to take action for performance of its obligations, responsibilities and duties as provided in this Act, rules and bye-laws or to execute the orders issued by the State Government or by the Registrar, from time to time, and such actions are not taken or such orders are not executed, the Registrar suo motu or on an application may issue directions to take such action or actions or execute such orders.

(2) Where any society is required to take any action or to

execute the orders as provided in the foregoing sub-section and such action is not taken or orders are not executed,—

(i) within the time provided in this Act, rules or the bye-laws or in the order, as the case may be ; (ii) where no time is provided, within such time having regard to the nature and extent of the action to be taken as the Registrar may specify by notice in writing,

the Registrar may himself or through a person authorized by him take such action or execute such order at the expense of the society and such expenses shall be recoverable from the responsible officer of the society as if it were arrears of land revenue :

Provided that, before issuing an order or direction and fixing the responsibility of payment of expenses an opportunity of being heard shall be given to the officer of society to whom the Registrar considers to be responsible for not taking such action or not executing such orders.

(3) The application submitted by a Member to the society for the certificate or certificates for sale of his flat or mortgaging it for obtaining loan or for any other purpose shall be decided by the society within a period of thirty days from the date of receipt of such application and decision thereon shall be intimated to him within a period of fifteen days. If society fails to decide and intimate such application within such time or if such application is rejected, the Member may file appeal to the Registrar for appropriate relief within a period of three months from date of submission of application to the society or within a period of two months from the date of decision of rejection by society, whichever is earlier :

Provided that, every such appeal shall be disposed of by the Registrar within a period of sixty days from the date of its receipt after giving opportunity of being heard to all the

parties.”

5. A plain reading of Section 154B-27 shows its limited scope. The provision allows the Registrar to step in only when a society fails to perform duties that already exist under the Act, the Rules, or the bye-laws. These duties must be clear and pre-existing. The Registrar can then issue directions to ensure compliance. If the society still does not act, sub-section (2) permits the Registrar to get the work done through an authorised person at the society’s cost. The section, therefore, operates only to enforce what the law or the bye-laws already require the society to do. It does not create new rights, nor does it permit a fresh determination of disputed claims.

6. When Section 154B-27 is read as a whole, its character remains the same. It is a machinery provision meant for enforcement. It does not give the Registrar authority to decide disputes between a member and the society on substantive issues. There is no express power under this section to examine rival claims, interpret bye-laws in a disputed manner, or finally decide monetary liability. In the present case, the authorities have gone beyond enforcement and have effectively decided the entire grievance of the member regarding water charges. This amounts to adjudication of substantive rights, which the statute does not permit under Section 154B-27. Such an exercise travels beyond the limits of the power conferred by law. For this reason, the authorities acted without jurisdiction. The impugned orders, therefore, suffer from a clear jurisdictional error and cannot be sustained. They are liable to be set aside.

7. Rule is made absolute in terms of prayer clause (b).
8. However, it is clarified that this Court has not examined or decided the merits of the dispute between the parties. It shall remain open to the concerned member to agitate his grievance regarding the legality or otherwise of the charges levied by the society before an appropriate forum. Such remedy may be availed by invoking the provisions of Section 154 or Section 29 of the Maharashtra Cooperative Societies Act, 1960, or by raising a dispute under Section 91 of the said Act, and also, if so advised, by resorting to Sections 79(2) and 79(3) of the MCS Act.
9. With this clarification, the writ petition stands disposed of.
10. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)