

MPBalekar

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

WRIT PETITION NO. 14098 OF 2025

Trilochan Sridham Bhowmick and Anr. ... Petitioners

V/s.

The State Of Maharashtra and Ors. ... Respondents

Prakash Dhopatkar along with Vithika Santosh
Vhatkar i/by Santosh Vhatkar Associates for the
petitioner.

S.R. Crasto, AGP for the State – Respondent No.1.

Sachin Kumar R. i/by Ram Yadav for Respondent
Nos.2 & 3.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 5, 2026

P.C.:

1. This writ petition arises from rejection of an application for interim relief. The application was filed by a member of the housing society against the society. The grievance relates to a resolution passed by the Managing Committee which restrained the petitioner from parking his vehicle in an open space within the society premises. The interim relief sought was to stay the effect of that resolution during pendency of the dispute.

2. The claim of the petitioner before the cooperative court was based on an alleged allotment made by the developer. According to the petitioner, the developer had allotted the parking space in question to him and therefore the society could not prevent him

from using it. On the other hand, the society placed on record that it had passed a general resolution allotting parking spaces to its members as a matter of policy and had also levied parking charges accordingly. Thus, the society asserted that parking spaces form part of common areas and their allotment is governed by decisions taken collectively by the society.

3. The challenge in the dispute was confined only to the resolution dated 10 July 2022 by which the petitioner was restrained from parking in the open space. The courts below relied upon the decision of the Supreme Court in *Nahalchand Laloochand Pvt. Ltd. vs. Panchali Co-operative Housing Society Ltd*, AIR 2010 Supreme Court 3607. In that case, the Supreme Court has clearly held that a promoter has no right to sell or allot open parking spaces or other common areas by describing them as garages. Applying this settled position of law, the courts below found that the alleged allotment by the developer could not confer any enforceable right upon the petitioner.

4. In the present case, it is not in dispute that the society had earlier taken a policy decision by passing an independent resolution to allot parking spaces to its members. The resolution dated 10 July 2022, which is under challenge, is only a consequential resolution meant to implement and enforce the earlier policy decision of the society. Importantly, the petitioner has not challenged the basic resolution by which the society decided the manner of allotment of parking spaces. Without questioning that foundational decision, the petitioner cannot selectively challenge only the consequential resolution restraining him from

parking. In such circumstances, no prima facie case for interim relief was made out. The courts below were therefore justified in refusing interim protection. The impugned order does not suffer from any jurisdictional error or perversity.

5. The writ petition does not merit interference and is accordingly dismissed.

(AMIT BORKAR, J.)