Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17059 OF 2025

1. **Petit Mansion C-Wing Cooperative Housing Society Limited,**
   a Society registered under Section 9 of the Maharashtra Cooperative Societis Act, 1960, Under Registration No.MUM/WD/HSG/(TC) 10073/2022-23 year having its Office at 85, Naushir Bharucha Marg, Grant Road (W), Mumbai – 400 007.

SHABNOOR AYUB PATHAN

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2. **Heena Kishor Gala**
   Adult, Age 62 years ofMumbai Indian Inhabitant, the Chairperson of Petit Mansion C-Wing CHS, Having her address at Petit Mansion, C-Wing, 85 Naushir Bharucha Marg, Grant Raod (W), Mumbai – 400 007.
   Mobile No. 9833209055 … Petitioners

V/s.

1. **The State of Maharashtra**
   Through Ministry of Housing and Cooperation, Mantralaya, Madam Cama Road, Mumbai 400032.
2. **The Divisional Joint Registrar,**
   Cooperative Societies Mumbai Division, “D” Ward Mumbai having his office at Malhotra House, Mumbai 400 001.
3. **The Deputy Registrar,**
   Cooperative Societies Mumbai Division, “D” Ward Mumbai having his office at Malhotra House, 6th Floor, Fort, Mumbai 400 001.
4. **Dilip Vallabh Sanghvi (Since Deceased)**

having his shop at Shop No.C/S/06, Petit Mansion Coop. Housing Soc. Ltd., 85, Naushir Bahrucha Marg, Grant Road (W), Mumbai – 400 007 also residing at Flat No.303, 3rd Floor, Dheeraj Residency, Road, Kandivali (W), Mumbai – 400 067.

4A. Nayna Dilip Sanghvi,
Adult, age not known of Mumbai, Indian Inhabitant, residing at Flat No.303, 3rd Floor, Dheeraj Residency, Road, Kandivali (W), Mumbai – 400 067.

4B. Ruchi Dilip Sanghvi,
Adult, age not known of Mumbai, Indian Inhabitant, residing at Flat No.303, 3rd Floor, Dheeraj Residency, Road, Kandivali (W), Mumbai – 400 067.

4C. Priyank Dilip Sanghvi,
Adult, age not known of Mumbai, Indian Inhabitant, residing at Flat No.303, 3rd Floor, Dheeraj Residency, Road, Kandivali (W), Mumbai – 400 067.

5. Lakhamshi Ratanshi Karia
Adult, age 70 years of Mumbai Indian Inhabitant residing at A/1, Balaram Building, 33 Balaram Street, Grant Road (E), Mumbai – 400 007.

6. Jinesh Lakhamshi Karia
Adult, age 48 years of Mumbai Indian Inhabitant residing at A/1, Balaram Building, 33 Balaram Street, Grant Road (E), Mumbai – 400 007.

7. Monil Mahesh Shah
Adult, age 48 years of Mumbai Indian Inhabitant residing at Flat no.402, B-Wing, Dipti Green, Off. Sahara Road, Opp. Bombay Cambridge School, J. B. Nagar, Andheri (E) Mumbai 400 099.

8. **Kunjal Lakhamshi Karia**
   Adult, age 44 years of Mumbai Indian
   Inhabitant residing at A/1, Balaram Building,
   33 Balaram Street, Grant Road (E),
   Mumbai – 400 007.

9. **Petit Mansion Co-operative Housing Society Limited** a Society registered
   under Section 9 of the Maharashtra
   Cooperative Societies Act, 1960 under
   Registration No.BOM/HSG/CD/6435
   Having its Office A 85,
   Naushir Bharucha Marg, Grant Road (W),
   Mumbai – 400 007. … Respondents

Mr. Bhavin Gada a/w Ms. Anchal Singhania, Mr. Dhaval Visawadia & Ms. Dharmi Savla i/b Harkhchand Co, for the Petitioners.

Mrs. V. S. Nimbalkar, AGP, for the State – Respondent Nos.1 to 3.

Mr. Avinash Joshi, for Respondent Nos.5 to 8.

CORAM : AMIT BORKAR, J.

RESERVED ON : JANUARY 7, 2026

PRONOUNCED ON : JANUARY 16, 2026

JUDGMENT:

1. The petitioners have filed this writ petition to challenge the judgment and order dated 24 March 2025 passed by respondent No.2 in Appeal No.53 of 2024. By that judgment and order, respondent No.2 confirmed the order dated 19 December 2023 passed by the Deputy Registrar under Section 154B-27 of the Maharashtra Cooperative Societies Act, 1960. The petitioners also challenge the order dated 19 December 2024 passed in Appeal No.201 of 2023 confirming the order dated 20 December 2022

passed under Section 154B-27 of the said Act. The petitioners further challenge the consequential show cause notices dated 5 February 2024 and 10 June 2024 calling upon them to comply with the impugned orders.

2. The facts giving rise to the present writ petition are as follows. Petitioner No.1 is a cooperative housing society registered on 1 January 1982 under the Maharashtra Cooperative Societies Act. The society admitted one Mr. Dady Sorabjee Major as member in respect of Shop No. C/S/06 on 19 July 1998. Thereafter Smt. Manek Ady Amroliwala became a member of petitioner No.1 society. On 20 January 2000 respondent No.4 purchased Shop No. C/S/06 from Smt. Manek Ady Amroliwala. On 13 July 2004 respondent No.4 became a member of respondent No.9 society. On 25 August 2014 consent terms were filed between respondent Nos.5 to 8 and respondent No.4 in Suit No.257 of 2013 in respect of a 4 percent undivided share in Shop No. C/S/06. On 27 June 2016 further consent terms were filed in the same suit, under which respondent No.5 was held entitled to a 4 percent share in Shop No. C/S/06. On 4 October 2016 a deed of conveyance was executed between respondent No.4 and respondent Nos.5 to 8 in respect of the said 4 percent share. According to the petitioners, the consent terms are not registered and no stamp duty has been paid. By order dated 20 May 2022 passed by respondent No.3, petitioner No.1 society stood bifurcated. On 29 August 2022 respondent No.4 addressed a letter to petitioner No.2 claiming ownership of Shop No. C/S/06 on the basis of the said conveyance deed, which according to the petitioners relates only to a 4 percent

share. On the same day respondent Nos.5 to 8 addressed a letter to the Chairman of petitioner No.1 stating that respondent No.4 had ceased to be the owner of Shop No. C/S/06.

3. On 29 August 2022 the Chairman of petitioner No.1 addressed a letter to respondent No.9 society seeking details of members of Wing C. Respondent No.9, by its letter of the same date, forwarded the list of members of Wing C showing respondent No.4 as member in respect of Shop No. C/S/06. Respondent Nos.5 to 8 thereafter filed an application before respondent No.3 against petitioner No.1 seeking directions to the Chief Promoter to submit A, B and C statements and bye laws for formation and registration of the society pursuant to the order dated 20 May 2022 in respect of Shop No. C/S/06. By letter dated 8 December 2022 petitioner No.1 called upon respondent Nos.5 to 8 to produce relevant documents and grant inspection as referred to in their application dated 12 September 2022. Respondent Nos.5 to 8 did not comply. Respondent No.3 by order dated 28 December 2022 allowed the said application under Section 154B-27 and directed the Chief Promoter of petitioner No.1 society to include the names of respondent Nos.5 to 8 in the documents filed for registration of the society. On 10 January 2023 petitioner No.1 addressed a communication to respondent No.3 stating that the registration proposal of petitioner No.1 society had already been filed including the name of one Dilip Sanghavi as promoter in respect of Shop No. C/S/06 and excluding respondent Nos.5 to 8 who were only associate members of respondent No.9 society. The society stated that in absence of title documents the names of respondent

Nos.5 to 8 could not be included and since petitioner No.1 society already stood registered and there was neither title document nor payment of stamp duty, the names of respondent Nos.5 to 8 could not be included as members in respect of Shop No. C/S/06. On 21 February 2023 petitioner No.1 preferred Appeal No.201 of 2023 before respondent No.2 challenging the order dated 28 December 2022.

4. On 28 August 2023 respondent Nos.5 to 8 filed an application under Section 154B-27 seeking directions to petitioner No.1 society to issue maintenance bills for Shop No. C/S/06 in their names. On 12 September 2023 petitioner No.1 filed affidavit in reply stating that in absence of title documents respondent Nos.5 to 8 were not members in respect of Shop No. C/S/06 and therefore no maintenance bills could be issued in their names. By order dated 19 December 2023 respondent No.3 directed petitioner No.1 society to issue maintenance bills in respect of Shop No. C/S/06 in the names of respondent Nos.5 to 8 by modifying earlier bills. On 5 February 2024 respondent No.3 issued a show cause notice to petitioner No.1 calling upon it to explain delay in implementing the order dated 19 December 2023. On 8 February 2024 petitioner No.1 preferred Appeal No.53 of 2024 challenging the order dated 19 December 2023.

5. On 19 December 2024 respondent No.2 dismissed Appeal No.201 of 2023. Respondent Nos.5 to 8 thereafter filed Writ Petition No.12750 of 2024 which this Court disposed of on 24 March 2025 with liberty to adopt statutory remedies. On the same date respondent No.2 dismissed Appeal No.53 of 2024. The

petitioners have therefore filed the present writ petition.

6. Mr. Gada, learned Advocate for the petitioners, submitted that the order dated 28 December 2022 passed by the Deputy Registrar directing the Chief Promoter of petitioner No.1 society to include the names of respondent Nos.5 to 8 in place of Mr. Dilip Sanghvi is without jurisdiction. He submitted that petitioner No.1 society has seriously disputed the ownership claim of respondent Nos.5 to 8 in respect of Shop No. C/S/06. He submitted that unless there is adjudication of substantive ownership rights, the Registrar could not have issued directions under Section 154B-27 to include the names of respondent Nos.5 to 8 in the proposal for registration. He submitted that the power under Section 154B-27 arises only after the society stands registered. He submitted that the Deputy Registrar has no power under the MCS Act to issue directions to the Chief Promoter. He submitted that if any person is aggrieved by the action or inaction of the Chief Promoter, such person must approach the Civil Court. He submitted that in absence of conferment of membership upon respondent Nos.5 to 8, the Deputy Registrar could not have passed the order dated 19 December 2023 under Section 154B-27 since that power is only a mechanism for enforcement and cannot be used to decide rights between parties. He submitted that the order dated 19 December 2023 itself shows that the Registrar has adjudicated rival civil claims. He therefore submitted that the impugned orders and the consequential show cause notices deserve to be quashed and set aside.

7. In reply, Mr. Joshi, learned Advocate for respondent Nos.5 to 8, opposed the petition. He submitted that petitioner No.1 society, by its communication dated 16 April 2024, informed the Deputy Registrar that in furtherance of the orders dated 28 May 2022 and 28 December 2022, it would accept respondent Nos.5 to 8 as holders of a 4 percent share in Shop No. C/S/06. He submitted that petitioner No.1 society is therefore estopped from challenging the impugned orders. He submitted that under the consent terms the amounts were paid to respondent No.4 and the dispute between respondent No.4 and respondent Nos.5 to 8 stood settled. He submitted that the deed of conveyance in respect of 4 percent share stands in favour of respondent Nos.5 to 8. He submitted that on 8 August 2010 the names of respondent Nos.5 to 8 were added in the I and J Registers of respondent No.9 society. He submitted that the Deputy Registrar has not adjudicated the issue of ownership but has only taken note of the transfer evidenced by the conveyance and has directed issuance of maintenance bills accordingly. He submitted that Section 154B-27 read with Section 79A of the MCS Act confers supervisory and corrective powers on the Registrar to issue binding and corrective administrative directions and to ensure statutory compliance. He submitted that the Deputy Registrar has not decided civil rights but has issued administrative directions to ensure compliance. He submitted that the writ petition deserves dismissal.

8. 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."

9. 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. 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.

10. When Section 154B-27 is read in its entirety, its true nature becomes clear. The section is meant only to ensure that a society

carries out duties that are already fixed by law or by its own bye-laws. It works as a enforcement mechanism. It does not create a forum for deciding disputes. The Registrar's role under this section is limited to seeing that the society performs what it is already bound to do. There is nothing in this provision which authorises the Registrar to enter into a dispute between a member and the society. The section does not permit the Registrar to weigh competing claims, to interpret bye-laws where their meaning itself is disputed, or to decide whether a particular amount is payable by a member. Questions of liability and correctness of charges involve determination of substantive rights. Such determination requires adjudicatory power, which Section 154B-27 does not confer. Therefore, the section cannot be used as a substitute for proceedings meant to decide disputes under the Act.

11. In this situation, adjudication and enforcement are two separate steps with two separate functions. Adjudication means deciding a dispute. The authority give opportunity of hearing to both sides. The authority looks at their competing claims. The authority then decides who is right, who is wrong, whether the demand is lawful, and whether any amount is actually due. After adjudication, the dispute ends because the rights and liabilities are finally settled. This requires clear legal power because it affects money and legal rights.

12. Enforcement comes after rights and duties are already clear. Enforcement does not answer who is right. Enforcement does not decide how much is payable. Enforcement only makes sure that the society obeys a duty that is already fixed under the Act, Rules

or bye-laws. Section 154B-27 assumes that the duty of the society is already clear. If the society still does not act, the Registrar can step in and make sure that the society performs its existing duty. The Registrar is not allowed to decide what the duty should be. The Registrar only ensures that the duty is carried out.

13. The difference becomes clear when there is an actual disagreement. If a member says that the water charges are illegal, and the society says the charges are valid, then there is a dispute. Competent forum must examine the bye-laws, check the facts, and decide the rights and liabilities. This is adjudication. This needs specific legal authority. Section 154B-27 does not give such authority. It does not allow the Registrar to decide who is correct in fixing the water charges.

14. If the bye-laws clearly state how a particular charge must be calculated, and the society simply ignores this requirement, then there is no dispute about meaning. The society is only failing to follow a clear rule. In that situation, the Registrar can enforce compliance under Section 154B-27. This is enforcement because the duty is already defined and undisputed.

15. The first point raised by the petitioners is on the nature and scope of Section 154B-27. The Court has already set out this section. The language of the section is clear. The section deals with performance of obligations, responsibilities and duties which already exist under the Act, the Rules or the bye-laws. The section does not deal with creation of rights. The section does not deal with determination of ownership. The section does not deal with

membership disputes. The section does not authorise the Registrar to decide questions of entitlement. The section assumes that the duty is already fixed and unambiguous. If the society does not perform such duty, the Registrar may issue directions. If the society still does not act, the Registrar may get the work done at the cost of the society.

16. The petitioners are correct in saying that adjudication and enforcement are different. Adjudication means hearing both sides, examining rival claims, considering evidence and giving a finding. Enforcement means ensuring that the society performs a clear and pre-existing duty. Enforcement does not decide who is right or wrong. Enforcement presupposes that the right and duty are already settled. Section 154B-27 is an enforcement provision. It does not confer adjudicatory power.

17. The second point raised by the petitioners is that the Registrar has no power to direct the Chief Promoter. Section 154B-27 does not name the Chief Promoter. The Chief Promoter is a creature of bye-laws and registration process. If any party challenges the conduct of the Chief Promoter, that party must show a statutory provision which enables intervention. Section 154B-27 does not fill that role. The section is about enforcing duties of a registered society. The section is not about directing the Chief Promoter during the registration process. The petitioners are therefore right when they say that any grievance against the Chief Promoter must go before the proper civil forum unless the Act expressly provides otherwise.

18. The third point raised by the petitioners is that the Deputy Registrar has in fact decided issues of ownership. The Court has examined the order dated 19 December 2023. The reasoning in that order shows that the Registrar has recorded who paid what, who conveyed what, and who possesses what. The Registrar has then proceeded to direct the society to issue maintenance bills in the names of respondent Nos.5 to 8. The direction to issue bills is not merely administrative because issuance of bills carries financial liability. The Registrar has thus accepted the case of respondent Nos.5 to 8 and rejected the case of petitioner No.1. This is adjudication in substance. This cannot be done under Section 154B-27.

19. This Court now turns to the submissions of respondent Nos.5 to 8. Their first point is on estoppel. They say that petitioner No.1 wrote a letter on 16 April 2024 agreeing to accept respondent Nos.5 to 8 as holders of 4 percent share. Estoppel cannot confer jurisdiction. Even if petitioner No.1 agrees to something, the Deputy Registrar must have statutory power to pass orders. If the statute does not give that power, consent cannot create it. It cannot cure lack of jurisdiction.

20. Their second point is that the consent terms and conveyance deed settle ownership. This Court is not deciding ownership. This Court is deciding jurisdiction. Ownership may or may not be settled. If any party wants declaration of ownership, they must approach the competent Court. The Registrar under Section 154B-27 cannot decide this issue.

21. Their third point is that they are reflected as associate members in the records of respondent No.9 society. Reflection in records does not by itself resolve membership rights in petitioner No.1 society. Membership rights in a cooperative society are statutory. They require compliance with the Act, Rules and bye-laws. Any dispute about membership must be decided under the procedure given in the Act. Section 154B-27 cannot be used for that purpose.

22. Their fourth point is that the Registrar has only taken note of a transfer and issued administrative directions. This point cannot be accepted. Issuing maintenance bills in the names of respondent Nos.5 to 8 is not a simple act of forwarding information. It presumes that respondent Nos.5 to 8 are entitled to be treated as members in respect of Shop No. C/S/06. It presumes that respondent Nos.5 to 8 have liability and rights. It presumes that respondent No.4 has ceased to have those rights. It presumes that the conveyance is effective against the society. These presumptions go to the root of civil rights. These issues cannot be decided under Section 154B-27.

23. Their fifth point relates to Section 79A. Section 79A gives the State power to issue directions in public interest for ensuring proper implementation of cooperative policy. It does not create a general adjudicatory power. Even if Section 79A and Section 154B-27 are read together, they do not permit adjudication of competing civil claims.

24. The dispute before the Deputy Registrar was not a simple

issue of whether the society failed to perform a clear duty. The society contended that respondent Nos.5 to 8 are not members because they have no title documents. Respondent Nos.5 to 8 contended that they are entitled because of conveyance. This is a clear dispute. It involves examination of documents, their genuineness, their legal effect, whether proper stamp duty is paid, whether registration is proper, and whether such documents bind the society. This cannot be treated as a failure to perform a clear duty. This is a disputed question of legal rights. The proper forum for such issues is not Section 154B-27.

25. For these reasons, this Court holds that the Deputy Registrar acted without jurisdiction when he directed inclusion of names of respondent Nos.5 to 8 in the registration proposal and when he directed issuance of maintenance bills in their names. The orders dated 28 December 2022 and 19 December 2023 are therefore illegal. The orders passed by respondent No.2 in Appeal No.201 of 2023 and Appeal No.53 of 2024 which affirmed these orders cannot stand. The consequential show cause notices cannot stand.

26. The writ petition is therefore allowed.

27. The impugned orders and consequential notices are quashed and set aside. This Court makes it clear that the parties are free to seek appropriate relief before the competent court or forum in accordance with law. The Court expresses no opinion on merits of ownership or membership.

(AMIT BORKAR, J.)