

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.7936 OF 2025
IN
WRIT PETITION NO.2518 OF 2017
WITH
WRIT PETITION NO.2518 OF 2017

Rajesh Nandlal Rathod ... Petitioner
V/s.
The Divisional Joint Registrar (Thane
and Konkan Division) & Others ... Respondents

Mr. N.R. Pradhan i/by Mr. R.P. Rathod for the
applicant/petitioner.

Mr. A.I. Patel, Additional G.P. with Mr. Hamid D. Mulla,
AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 24, 2026

P.C.:

Interim Application No.7936 of 2025:

1. For the reasons stated therein, the interim application is allowed in terms of prayer clauses (a) and (b).

Writ Petition No.2518 of 2017:

2. The present writ petition questions the legality of the order passed by the Divisional Joint Registrar, by which the proceedings under Section 101 of the Maharashtra Cooperative Societies Act, 1960 were remanded to the Assistant Registrar for fresh

consideration. The grievance of the petitioner is not against the remand itself alone, but mainly against the consequence that followed, namely, the refusal to direct refund of the amount deposited under Section 154(2A) while preferring the revision. Therefore, the issue that arises for consideration is narrow. It concerns the legal effect of remand and whether such remand automatically entitles the revision applicant to refund of the statutory deposit.

3. The principal submission advanced on behalf of the petitioner is that once the certificate issued under Section 101 is set aside and the matter is sent back to the first authority, the foundation for retaining the deposited amount disappears. According to the petitioner, the revisional authority, having interfered with the order under Section 101, ought to have directed immediate refund of the amount deposited under Section 154(2A). It is argued that continuation of retention of the amount, despite remand, causes prejudice to the member and amounts to treating the earlier determination as valid even after it has been set aside.

4. The Court is unable to accept this submission. It is true that compliance with Section 154(2A) is mandatory for entertaining a revision under Section 154. The statutory scheme makes the deposit a condition precedent. However, the nature and object of this deposit must be understood in its proper context. The amount is not deposited merely as a procedural formality. The legislature introduced this requirement to protect the interest of the cooperative society whose claim has already been examined and

accepted at the first stage under Section 101. The provision seeks to balance two competing interests. On one hand, it allows the member to challenge the order. On the other hand, it prevents the recovery process from being frustrated merely by filing a revision.

5. When a revisional authority remands the matter, it usually does so because of procedural defects, lack of adequate hearing, or failure to consider relevant material. Such remand does not amount to a final declaration that the claim of the society is false or not recoverable. The dispute regarding dues remains open. The adjudication is incomplete. The matter is only sent back for fresh examination. In such circumstances, directing refund as a matter of course would defeat the very purpose for which Section 154(2A) was enacted.

6. The right to refund cannot arise merely because the earlier order has been set aside on technical or procedural grounds. Refund becomes relevant only when there is a clear and final determination that the amount claimed by the society is not due, either wholly or to a defined extent. Unless such a conclusive finding is recorded by the competent authority under the Act, the statutory deposit continues to operate as security towards the claim under adjudication. If, after fresh adjudication, it is held that the society is not entitled to recover the amount or is entitled only to a lesser amount, then and only then the member becomes entitled to refund to that extent. Until such final determination, the deposit must remain protected.

7. The argument of the petitioner proceeds on an assumption that remand wipes out the society's claim altogether. That assumption is legally incorrect. Remand restores the proceedings to the stage of reconsideration. It does not decide the merits finally. Therefore, the contention that refund must automatically follow remand cannot be accepted. Such an interpretation would convert a conditional statutory safeguard into an empty formality and would run contrary to the legislative intent behind Section 154(2A).

8. In view of the above discussion, no legal error can be found in the impugned order. The revisional authority has rightly refrained from directing refund at this intermediate stage. The rights of both sides remain open and will depend upon the final adjudication before the competent authority. No ground for interference under writ jurisdiction is made out.

9. The writ petition is accordingly dismissed. There shall be no order as to costs.

(AMIT BORKAR, J.)