

*MPBalekar*

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

**WRIT PETITION NO. 2299 OF 2026**

Pimpri Audyogik Kamgar  
Sahakari Grihrachana Sanstha  
Maryadit ... Petitioner

**V/s.**

Divisional Joint Registrar Co-operative  
Societies, Pune Division, Pune  
and Ors. ... Respondents

Mr. Ashutosh M. Kulkarni i/by Akil Kupade for the  
petitioner.

Mrs. Sulbha Chipade, AGP, for the State – Respondent  
Nos. 1 & 2.

Mr. Anil M. Chauhan a/w Aneel Upadhyay for  
respondent No. 3.

**CORAM : AMIT BORKAR, J.**

**DATED : MAY 5, 2026**

**P.C.:**

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The present challenge in this writ petition is arising from order dated 8 October 2025, which is passed by the Deputy Registrar and thereafter confirmed by the Divisional Joint Registrar. By said order, direction is given to petitioner society to issue No Objection Certificate in respect of sale of plot No. 52, which is under governance and control of petitioner society.
- 3.** The grievance of petitioner is that such direction is not

merely administrative in nature, but it travels beyond limited jurisdiction conferred under the statute. It is contended that authority has acted in manner which affects substantive rights relating to immovable property, without proper adjudication. When order compels society to grant No Objection Certificate, it indirectly recognises entitlement of respondents in respect of property, which is itself under dispute. Therefore, according to petitioner, the impugned order is not simple direction, but it carries consequence which touches upon title and possession, and hence same is liable to be examined with caution.

4. The case of petitioner society is that there is serious dispute regarding encroachment allegedly committed by contesting respondents. It is pointed out that society has already taken recourse to lawful remedy by instituting civil suit seeking removal of such encroachment. This aspect assumes importance because once dispute is pending before competent civil court, issues relating to possession, boundary, and extent of encroachment are required to be determined by leading evidence. The petitioner submits that under Section 154B(27) of the Maharashtra Co-operative Societies Act, 1960, the powers of Registrar are of limited nature and are not intended to decide complicated questions of fact. If direction to grant No Objection Certificate is issued in such background, it would have effect of prejudging dispute and may weaken case of society before civil court. Thus, according to petitioner, exercise of such power amounts to indirectly closing dispute without trial, which is not permissible under law.

5. On the other hand, the respondents have opposed the petition by contending that allegation of encroachment is not correct. According to them, no illegal occupation is made by them and they are willing to have issue verified by appointment of Government Surveyor. This submission is made to show that dispute, if any, can be objectively determined through measurement and survey. It is further implied that refusal of society to grant No Objection Certificate is unjustified and is causing obstruction in lawful transaction of property. However, such stand itself indicates that there exists factual controversy regarding encroachment, which requires proper examination and cannot be assumed one way or other without evidence.

6. Upon consideration of rival submissions, in my opinion, this Court is not required to enter into disputed questions of fact, particularly when same are already subject matter of pending civil suit. The existence of such dispute itself creates limitation on exercise of powers by statutory authority. Once parties are contesting their rights before civil court, any direction which may influence or affect such rights ought to be avoided by authorities exercising summary jurisdiction. The power under Section 154B(27) of the Act is essentially in nature of enforcement of obligations already crystallised and it does not confer adjudicatory authority to decide substantive disputes relating to property rights. If Deputy Registrar proceeds to direct issuance of No Objection Certificate in such situation, it would amount to indirectly deciding that respondents are entitled to deal with property free from objection, which is precisely matter in dispute. Such exercise

travels beyond scope of provision and is therefore unsustainable. In that view of matter, the impugned order cannot be allowed to stand.

7. The Rule is accordingly made absolute in terms of Clause (b), with all consequential steps including issuance of notice being set aside.

8. It is clarified that all rights and contentions of parties are expressly kept open. The civil court shall decide the dispute on its own merits, without being influenced by any observations made herein.

9. The writ petition stands disposed of in above terms.

(AMIT BORKAR, J.)