

AGK

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

WRIT PETITION NO.4965 OF 2026

Neelam Kuldeep Ahluwalia	... Petitioner
V/s.	
The State of Maharashtra & Others	... Respondents

Mr. Anisha Chieema with Mr. Chirag Unadkat i/by Mr.
Chirag Unadkat for the petitioner.

Smt. A.A. Purav, AGP for respondent Nos.1 to 3-State.

ATUL
GANESH
KULKARNI

Digitally signed by
ATUL GANESH
KULKARNI
Date: 2026.04.20
14:35:17 +0530

CORAM : AMIT BORKAR, J.

DATED : APRIL 20, 2026

P.C.:

1. The challenge raised in the present writ petition has come because of an order passed by the learned Registrar while exercising powers under Section 23(2) of the Maharashtra Cooperative Societies Act, 1960. By the said order, respondent No.2 has been granted status of joint member in relation to a Tenant Ownership Cooperative Housing Society. The grievance of the petitioner is directed against this conferment of joint membership. According to the petitioner, the Registrar has exceeded the proper limits of authority by granting such recognition without correctly appreciating the nature of rights attached to membership in a Tenant Ownership Society. Since the impugned order affects internal membership records of the society

and may have future civil consequences between parties, the legality of such order requires close examination in writ jurisdiction.

2. The principal submission advanced on behalf of the petitioner is that respondent No.5 cannot derive any independent right, title or interest in the land merely because joint membership is granted in the society records. It is contended that the property in question consisted of a multistory structure standing on the land, and after demise of the original owner, the legal representatives were occupying different portions of the building under their family arrangement. Thus, according to the petitioner, possession of portions of structure was a matter of family settlement, and not a source of transfer of proprietary rights in the land. The apprehension expressed is that once respondent No.5 is shown as joint member, they may attempt to project entry as recognition of co-ownership in the land.

3. For proper consideration of the controversy, it becomes necessary to notice the statutory scheme governing Tenant Ownership Housing Societies under the Maharashtra Cooperative Societies Act. The relevant provisions are Section 154B-17(a) and Section 154B-18(b), which define Tenant Ownership Housing Society and Joint Member respectively. They read thus:

“154B (17)(a) ‘tenant ownership housing society’ means a society the object of which is to allot the plots to its Members to construct the dwelling unit or flats thereon or to allot the dwelling units already constructed and where land is held

either on lease hold or free hold basis by the society and houses are owned or to be owned by the Members;

154B (18)(b) 'Joint Member' means a person joining in an application for the registration of a housing society jointly, which is subsequently registered or a person who is duly admitted to Membership after its registration and who holds share, right, title and interest in the flat jointly but whose name does not stand first in the share certificate;"

4. On a conjoint and harmonious reading of both the above provisions, it becomes clear that in a Tenant Ownership Cooperative Housing Society, the land may stand vested in the society either on leasehold basis or freehold basis. At the same time, the houses, dwelling units or flats standing thereon are owned, or intended to be owned, by the individual members. Thus, the statute contemplates separation between land through the society and ownership of superstructure. This is foundational to the working of a Tenant Ownership Society. A person may be recognized in connection with ownership of a structure, yet that by itself does not automatically merge into full proprietary claim over the land beneath it.

5. It is also well settled in cooperative jurisprudence that grant of membership by a society, or recognition of a person as joint member, does not amount to adjudication of disputed title between claimants. A cooperative society is not a civil court deciding questions of succession, ownership, partition, inheritance or transfer unless such jurisdiction is conferred. Membership

decisions are taken for internal administration of the society. Such decisions are relevant for maintaining membership registers, issuing share certificates, determining voting rights as per bye laws, and identifying the person from whom dues, maintenance charges and other liabilities may be recovered. Therefore, society records do not extinguish or create civil title in immovable property. If any dispute regarding ownership exists, such question must be decided in appropriate legal proceedings before the competent forum.

6. If this legal position is kept in view, then mere conferment of joint membership in favour of respondent No.2 cannot transfer right, title or interest in the land. Unless there exists an legal instrument, succession entitlement, decree of competent court, statutory transfer, or any other lawful source of title, no claim over land can arise merely because the name of a person is entered as joint member. The apprehension of the petitioner that future claims may be made is understandable, but such apprehension cannot convert a membership entry into a document of title. Therefore, joint membership and ownership rights cannot be treated as same.

7. With this clarification, the writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)