

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO.6416 OF 2026

Madhavi Vilas Gosavi and Anr.

...Petitioners

V/s.

Rajesh Mishra and Ors.

...Respondents

Mr. Karl Tamboly *i/b Ms. Priya Chaturvedi for Petitioner.*

Mr. N.N. Bhadrashete *i/b Mr. Jigar Shah for Respondent Nos. 1 to 6 and 9.*

Mr. Raheen Ajmerwalla *i/b Mr. Chirag Thakkar for Respondent Nos. 7 and 8.*

Mr. S.L. Babar, AGP *for State, Respondent No.10.*

CORAM: SANDEEP V. MARNE, J.

RESERVED ON: 8 JUNE 2026

PRONOUNCED ON: 12 JUNE 2026

JUDGMENT:

1) **Rule.** Rule is made returnable forthwith. With the consent of the learned counsel appearing for the parties, the Petition is taken up for final disposal.

2) By this Petition, Petitioners have challenged the Resolution adopted by the Managing Committee of the Society as endorsed by

Deputy Registrar, Co-operative Societies, P-Ward, Mumbai (**Deputy Registrar**), which has the effect of removal of Petitioner No.2 from the position of Chairman of the Managing Committee. The Deputy Registrar has also declared that the position of Chairman of the Society has become vacant. Petitioner No.2 is accordingly aggrieved by the Resolution adopted by the Managing Committee and by the decision of the Deputy Registrar by which she is removed from the position as Chairman of the Society. Petitioner No.1 is also aggrieved by the impugned Resolution and the decision of the Deputy Registrar on account of the fact that she was not allowed to participate and vote in the meeting held on 15 April 2026. Since the vacant position of Chairman is filled by Resolution dated 2 May 2026, the same is also challenged by amending the Petition.

3) Padmavati Nagar Co-operative Housing Society Limited (Respondent No.9) is a society formed by owners and occupiers of flats of Society's building and registered vide registration certificate dated 19 February 1987. The Society's building is located at Goregaon (East), Mumbai. Since Society's building had become old, it resolved to undertake redevelopment thereof. Accordingly, a Development Agreement dated 27 September 2012 was executed with Developer- M/s. Viraj Properties. A Power of Attorney was also executed in favour of the partners of the Developer. A Supplementary Development Agreement was executed on 29 December 2014. The Society's building was demolished in or about October 2020 by the Developer. According to the Petitioners, the Developer has failed to carry out redevelopment process despite passage of substantial period of time. It appears that one more

Supplementary Development Agreement-II dated 8 February 2022 is executed between the Society and the Developer. However, since there was no further progress in the project, 51 out of 73 members apparently withdrew their consents for redevelopment through the appointed Developer vide letter dated 22 September 2025. On 5 March 2026, a notice was issued convening Special General Body Meeting (**SGBM**), which was scheduled to be held on 15 March 2026. One of the agendas for the meeting was the possible termination of the Developer. However, according to the Petitioners, certain members of the Society requested for withdrawal of the notice and demanded issuance of fresh notice in proper form. Accordingly, SGBM, which was scheduled to be held on 15 March 2026, was postponed. A fresh notice dated 4 April 2026 was issued convening SGBM on 12 April 2026. In the notice dated 4 April 2026, the agenda was for both termination of the Developer as well as for appointment of one member in the Managing Committee for the post reserved for SC/ST/NT. However, on 6 April 2026, Respondent Nos.1 to 6 sent a requisition to the office of Respondent No.10 for moving a motion of no confidence against Petitioner No.2. On 9 April 2026, Respondent No.10-Deputy Registrar issued notice convening a special meeting of the Managing Committee to be held on 15 April 2026.

4) On 12 April 2026, SGBM of the Society was held, in which Resolution was adopted for terminating the appointment of the Developer. A separate Resolution was adopted for appointing Petitioner No.1 as a member of the Managing Committee in SC/ST/NT category. The decision appointing Petitioner No.1 as Managing Committee member was conveyed to the Deputy Registrar by the Society vide letter

dated 13 April 2026. On the front of no-confidence motion, Petitioner No.2 submitted reply dated 13 April 2026 *inter alia* bringing to the notice of Respondent No.10 that Petitioner No.1 was appointed as member of the Managing Committee. On 15 April 2026, special meeting of the Managing Committee was conducted under the aegis of the Deputy Registrar. The meeting was attended by nine members of Managing Committee, out of whom six members voted in favour of the motion, whereas three members voted against the motion. Respondent No.10 accordingly declared that the motion for no confidence was validly adopted against Petitioner No.2 and accordingly declared that Petitioner No.2 has ceased to be Chairman of the Society and that the position of Chairman fell vacant.

5) Petitioner No.2 is accordingly aggrieved by motion of no confidence adopted against her. On the other hand, since Petitioner No.1 was not given opportunity to participate in the special meeting of the Committee held on 15 April 2026, and to vote therein, she has also challenged the Resolution adopted in the meeting dated 15 April 2026. This is how common Petition is filed by both the Petitioners. During the course of hearing of the Petition, the learned counsel for Respondent Nos. 1 to 6 and 9 has placed on record copies of Notice dated 25 April 2026 and Resolution dated 2 May 2026. It appears that the Secretary of the Society had issued notice dated 25 April 2026 convening meeting of the Managing Committee on 2 May 2026 for filling up the post of Chairman. The meeting was held on 2 May 2026, in which a new Chairman was elected. The Petitioners have accordingly amended the

Petition by incorporating challenge to the notice dated 25 April 2026 and Resolution adopted in the meeting dated 2 May 2026.

6) Mr. Tamboly, the learned counsel appearing for the Petitioners submits that the impugned Resolution adopted by the Managing Committee for no confidence motion against Petitioner No.2 on 15 April 2026 is in the teeth of provision of Section 73-ID read with Section 154B-24 of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**). That there were 10 members of the Managing Committee as on 15 April 2026, and for passing motion of no-confidence by two-third majority, at least 7 members were required to vote in favour of the motion. That only 6 members have voted in favour of the motion, and accordingly, requirements of Sections 73-ID and 154B-24 of the MCS Act are not complied with. In support of his contention that there has to be strict compliance with the exact number forming two-third majority required under Section 73-ID of the MCS Act, Mr. Tamboly relies on judgment of this Court in **Radhakishan Sadarangani and others V/s. Deepa Rohera and others**¹.

7) Mr. Tamboly further submits that Petitioner No.1, who was co-opted as member of the Managing Committee on 12 April 2026, did not receive any notice in respect of the meeting scheduled to be held on 15 April 2026. That the factum of appointment of Petitioner No.1 was immediately communicated to Deputy Registrar on 13 April 2026 by the Society. Additionally, Petitioner No.2 also communicated the factum of appointment of Petitioner No.1 to the Deputy Registrar in her reply

¹ 2019 (1) Mh.L.J. 221

dated 13 April 2026. That therefore, it became incumbent for the Deputy Registrar to issue notice of the meeting to Petitioner No.1. That not permitting Petitioner No.1 to participate and vote in the meeting for or against the motion of no confidence renders the Resolution adopted on 15 April 2026 *ab initio* void.

8) Mr. Tamboly further submits that Respondent Nos.1 to 6 are actually acting in connivance with the Developer, whose appointment is already terminated by the General Body vide Resolution adopted on 12 April 2026. That the Developer has not made any progress in the redevelopment project since the year 2012. That members of the Society are out of their houses since the year 2020. That the sole reason for passing of no confidence motion against Petitioner No.2 is to assist the Developer and to somehow modify the decision for termination of his appointment.

9) So far as appointment of new Chairman is concerned, Mr. Tamboly submits that since the post of Chairman is illegally declared to have become vacant, holding of meeting for appointment of new Chairman and Resolution adopted in said meeting are automatically rendered void. Mr. Tamboly accordingly prays for setting aside the impugned Resolutions.

10) Mr. Bhadrashete, the learned counsel appearing for Respondent Nos.1 to 6 and 9, opposes the Petition submitting that Petitioner No.2 has lost confidence of more than two-third of Managing Committee members since she has acted against the interests of the Society. He

submits that Petitioner No.2 is attempting to ride on the appointment of Petitioner No.1 after convening of special meeting, for the sake of somehow protecting her position as Chairman despite loss of confidence by more than two-third majority members of the Managing Committee. He submits that Petitioner No.1 did not make any attempt to attend the meeting held on 15 April 2026. That even Petitioner No.2 did not raise the issue of appointment of Petitioner No.1 or non-issuance of notice to Petitioner No.1 during the course of meeting held on 15 April 2026. Having not raised the said issue in the meeting, Petitioner No.2 cannot raise the same directly before this Court. He submits that the special meeting dated 15 April 2026 has validly been conducted. He relies on Section 73-ID of the MCS Act in support of his contention that once requisition of one-third members is received, the Registrar has to act immediately for convening special meeting of the Committee. That special meeting was convened vide notice dated 9 April 2026 when Petitioner No.1 was not a member of the Managing Committee. That special meeting of the committee has to be conducted in accordance with the notice issued under sub-section (3) of Section 73-ID of the MCS Act. That law does not provide for sending of additional notice or for adjournment of the meeting for any reason. That Deputy Registrar has acted in accordance with law. He therefore submits that no fault can be found in the Resolution adopted in the meeting held on 15 April 2026.

11) Mr. Bhadrashete further submits that case involves disputed questions of fact, which cannot be adjudicated in a Petition filed under Article 226 or 227 of the Constitution of India. That the Petition is otherwise rendered infructuous on account of appointment of new

Chairman. He tenders copies of notice dated 22 April 2026 and Resolution dated 2 May 2026. He accordingly prays for dismissal of the Petition.

12) I have also heard Mr. Ajmerwalla, the learned counsel appearing for Respondent Nos.7 and 8, who have voted against the motion of no-confidence. Mr. Babar, the learned AGP appearing for Respondent No.10-Deputy Registrar supports the decision of the Deputy Registrar dated 15 April 2026 and the impugned Resolution adopted by the Managing Committee.

13) After having considered the above submissions, the short issue that arises for consideration is whether the Resolution adopted in special meeting of the Committee held on 15 April 2026 adopting no-confidence motion against Petitioner No.2 is valid in the light of provisions of Section 73-ID read with Section 154B-24 of the MCS Act.

14) Section 73-ID of the MCS Act deals with motion of no-confidence against officers of Society and provides thus:

73-ID. Motion of no-confidence against officers of societies

(1) An officer who holds office by virtue of his election to that office shall cease to be such officer, if a motion of no-confidence is passed at a meeting of the committee by two-third majority of the total number of committee members who are entitled to vote at the election of such officer and his office shall, thereupon be deemed to be vacant.

(2) The requisition for such special meeting shall be signed by not less than one-third of the total number of members of the committee who are entitled to elect the officer of the committee and shall be

delivered to the Registrar. The requisition shall be made in such form and in such manner as may be prescribed:

Provided that, no such requisition for a special meeting shall be made within a period of six months from the date on which any of the officers referred to in sub-section (1) has entered upon his office.

3) The Registrar shall, within seven days from the date of receipt of the requisition under sub-section (2), convene a special meeting of the committee. The meeting shall be held on a date not later than fifteen days from the date of issue of the notice of the meeting.

(4) The meeting shall be presided over by the Registrar or such officer not below the rank of an Assistant Registrar of Co-operative Societies authorised by him in this behalf. The Registrar or such officer shall, when presiding over such meeting, have the same powers as the President or Chairman when presiding over a committee meeting has, but shall not have the right to vote.

(5) The meeting called under this section shall not, for any reason, be adjourned.

(6) The names of the committee members voting for and against the motion shall be read in the meeting and recorded in the minute book of committee meetings.

(7) If the motion of no-confidence is rejected, no fresh motion of no-confidence shall be brought before the committee within a period of one year from the date of such rejection of the motion.

15) After the 2019 amendments to the MCS Act, Chapter XIII-B came to be inserted, making special provisions for co-operative housing societies. As per Section 154B of the MCS Act, sub-section (1) of Section 73-ID does not apply to the co-operative housing societies. For adopting motion of no-confidence against officers of the co-operative housing societies, special provision in the form of Section 154B-24 of the MCS Act is made. Section 154B-24 of the MCS Act provides thus:

154B-24. Motion of no confidence against officers of society

(1) An officer who holds office by virtue of his election to that office shall cease to be such officer if a motion of no confidence is passed at a

meeting of a Committee by not less than two third majority of the Committee Members who are present and entitled to vote at such meeting and his office shall thereupon be deemed to be vacant.

(2) The provisions of sub-sections (2) to (7) of section 73-ID shall apply *mutatis mutandis* to such motion.

16) Thus, only sub-section (1) of Section 73-ID is made inapplicable to co-operative housing societies and provisions of sub-sections (2) to (7) of Section 73-ID apply *mutatis mutandis* to a motion of no-confidence against officers of even co-operative housing societies.

17) There is a marked distinction between provisions of sub-section (1) of Section 73-ID and sub-section (1) of Section 154B-24 of the MCS Act. Under Section 73-ID (1), a motion of no confidence can be passed by two-third majority of total number of committee members '*who are entitled to vote*'. Thus, total working strength of managing committee needs to be taken into consideration while determining the two-third number, even if any member of the managing committee fails to attend the special meeting. Thus in relation to societies other than cooperative housing societies, if the total number of members entitled to vote is 12, at least 8 members must vote in favor of the motion of no confidence even if the meeting may have been attended by 10 members. On the other hand, in relation to co-operative housing societies, Section 154B-24 of the MCS Act provides for passing of motion of no confidence by not less than two-third majority of committee members '*who are present and entitled to vote at such meeting*'. Therefore, in similar scenario of 12 managing committee members entitled to vote, if the meeting is

attended by only 10 members, positive votes by only 6.67 (7) members in favour of Motion is sufficient.

18) Thus, a motion of no confidence against an officer of any other society needs to be adopted by two-third majority of total number of committee members, who are entitled to vote irrespective of the fact that they are present in the meeting or not. However, when it comes to co-operative housing societies, the number of two-third majority needs to be computed with reference to committee members, who are present and entitled to vote at the meeting.

19) Since Respondent No.9 is a co-operative housing society, provisions of Section 154B-24 (1) are applicable. Therefore, motion of no confidence needs to be adopted by not less than two-third majority of committee members, who are entitled to vote and who are also present at the meeting.

20) Respondent No.9-Society comprises approximately 100 members and the prescribed strength of the Managing Committee is 11 as per bye-law No.113, consisting of 6 members from general category and 5 members from reserved category. There is no dispute to the position that before 12 April 2026, the Managing Committee of Respondent No.9-Society had only 9 members. The Society decided to appoint one new member in the Managing Committee from the reserved category of SC/ST/NT. In the notice dated 4 April 2026 convening SGBM on 12 April 2026, an agenda was included for appointing a new Managing Committee member from SC/ST/NT category. However, before SGBM

could be held on 12 April 2026 for appointing the tenth Managing Committee member, six members of the Managing Committee signed and sent a requisition for holding special meeting for adopting motion of no confidence against Petitioner No.2. The Deputy Registrar acted on the requisition dated 6 April 2026 and issued notice on 9 April 2026, convening special meeting of the Committee on 15 April 2026 for taking decision on motion of no-confidence against Petitioner No.2. The notice dated 9 April 2026 was addressed individually to the then 9 existing members of the Managing Committee. Thus, even by 9 April 2026 (when notice was issued), the decision regarding appointment of tenth Managing Committee member was yet to be taken.

21) The SGBM was held on 12 April 2026, in which following Resolution was passed:

Resolution:

Since no other nominations were received, it was resolved that Mrs. Madhavi Vilas Gosavi hereby appointed as a member of the Managing Committee with immediate effect.

All members extended their best wishes to the newly appointed member.

22) Thus, Petitioner No.1 came to be appointed as a member of the Managing Committee on 12 April 2026 with immediate effect. The intimation of appointment of Petitioner No.1 as Managing Committee member was issued by the Society to the Deputy Registrar vide letter dated 13 April 2026, which was acknowledged by the office of the Deputy Registrar on 13 April 2026. Additionally, Petitioner No.2 gave a response

to Respondent No.10-Deputy Registrar after receipt of notice dated 9 April 2026, in which also she gave an intimation about appointment of Petitioner No.1 as Managing Committee member.

23) The special meeting of the Committee was held on 15 April 2026, which was presided over by the Deputy Registrar himself. In the meeting, motion was moved for no confidence against Petitioner No.2 by levelling allegation that she was acting against the interests of the Society by creating hurdles in redevelopment work by misguiding the members. The Resolution for adopting no confidence motion was placed before the special committee and the Presiding Officer put the same to vote. Six members of the Committee (Respondent Nos.1 to 6) voted in favour of the motion whereas three members (Petitioner No.2 and Respondent Nos.7 and 8) voted against the motion. Respondent No.10-Deputy Registrar ruled that since 6 out of 9 committee members voted in favour of the motion, the same constituted two-third majority. Accordingly, the motion of no confidence was declared to have been validly passed. The Deputy Registrar accordingly issued certificate dated 15 April 2026 declaring that motion of no-confidence was validly passed against Petitioner No.2, who ceased to be Chairman of the Society. The relevant portion of certificate of Respondent No.10 is as under:

सदर ठरावाबाबत चर्चा झाल्यानंतर अध्यासी अधिकारी यांनी ठराव मतास टाकण्यात येत असल्याचे सांगितले व ठरावाच्या बाजूने ज्यांना मतदान करावयाचे आहे त्यांनी हात वर करून संमती दर्शवावी असे सांगितले. त्यास अनुसरून श्री राजेश मिश्रा, श्रीमती मनीषा शिंदे, श्रीमती अमिता देखमुख, श्री शशिशेखर पांडे, श्री आशुतोष खटावकर व श्री श्याम शर्मा यांनी हात वर करून ठरावाच्या बाजूने मतदान केले. त्यानंतर अध्यासी अधिकारी यांनी ठरावाच्या विरुद्ध ज्यांना मतदान करावयाचे आहे त्यांनी हात वर करणेबाबत सांगितले त्यास अनुसरून श्रीमती माधुरी न्यायाधीश, श्री महेश पिंगळे व श्रीमती नीता घडी यांनी हात वर करून ठरावाच्या विरुद्ध मतदान

केले. अशाप्रकारे समितीच्या नऊ समिती सदस्यांपैकी सहा समिती सदस्यांनी ठरावाच्या बाजूने तर तीन समिती सदस्यांनी ठरावाच्या विरुद्ध मतदान केलेले असल्यामुळे ठरावाच्या बाजूने उपस्थित सभासदांच्या २/३ म्हणजेच सहा मते पडलेली असल्यामुळे अध्यक्षा श्रीमती माधुरी विनायक न्यायाधीश यांच्या विरुद्धा अविश्वास ठराव सहा विरुद्ध तीन मताने पारित झाल्याचे अध्यासी अधिकारी यांनी जाहीर केले.

हे प्रमाणपत्र मी या दिनांक १५.०४.२०२६ रोजी कांदिवली मुंबई या ठिकाणी दिले.

24) The Deputy Registrar issued letter dated 15 April 2026 to the Secretary/ Treasurer of the Society intimating his decision as under:

पद्मावती नगर को ऑप हौसिंग सोसा लि ., जन अरुणकुमार वैद्यमार्ग, वेस्टर्न हायवे एक्सप्रेस हायवे जवळ, गोरेगाव (पूर्व) मुंबई -४०० ०६३ या संस्थेचे अध्यक्षा श्रीमती माधुरी विनायक न्यायाधीश यांच्या विरुद्ध अविश्वासाचा ठराव मंजूर करणेसाठी या कार्यालयात दिनांक १५.०४.२०२६ रोजी बोलविण्यात आलेल्या समिती सभेमध्ये अविश्वासाचा ठराव २/३ बहुमताने मंजूर करण्यात आलेला आहे. त्यामुळे श्रीमती माधुरी विनायक न्यायाधीश यांनी धारण केलेले अध्यक्ष पद रिक्त झालेले असून ते समिती सदस्य म्हणून कार्यरत राहतील असे प्रमाणपत्र निर्गमित करण्यात आले असून त्याची नोंद संस्थेच्या इतिवृत्तामध्ये करण्यात आलेली असून सदरची कागदपत्रे सोबत जोडून देण्यात येत आहे.

25) Thus, in the present case, though Petitioner No.1 was appointed as a member of the Managing Committee on 12 April 2026, she has not participated in the Special Meeting held on 15 April 2026. The reason for her non-participation is non-issuance of notice to her by Respondent No.10-Deputy Registrar.

26) Thus, a unique conundrum is created in the present case where the total strength of Managing Committee at the time of sending the requisition (6 April 2026) and at the time of issuance of notice by the Deputy Registrar convening Special Meeting (9 April 2026) was nine, whereas the same got increased to ten by the time the Special Meeting was actually held on 15 April 2026. Neither Section 73-ID nor Section

154B-24 deals with such a situation. The language employed in sub-section (1) of Section 154B-24 is '*if a motion of no confidence is passed at a meeting of a Committee by not less than two third majority of the Committee Members who are present and entitled to vote at such meeting*'. There can be no doubt to the position that Petitioner No.1 who was admitted as the Managing Committee member on 12 April 2026 was entitled to vote in the meeting held on 15 April 2026. However, she was not entitled to receive notice issued by the Registrar for convening the Special Meeting under Section 73-ID(3) of the MCS Act. Thus, there appears to be some vacuum in the statutory scheme which does not deal with a situation where a person gets appointed as a member of the Managing Committee in the interregnum between sending of requisition and holding of the meeting.

27) If a strict view is adopted and if the provisions of Section 73-ID of the MCS Act are technically construed, the action of the Deputy Registrar in holding meeting with participation of only 9 Managing Committee members may not strictly be rendered erroneous. As per provisions of sub-section (5) of Section 73-ID, the Deputy Registrar is not supposed to adjourn the special meeting convened by him for any reason. Therefore, it was mandatory for the Deputy Registrar to hold the meeting convened in pursuance of requisition signed and sent by 6 Managing Committee members. However, at the same time, passing of motion of no confidence against the office bearer of a Society has drastic consequences. The Act provides for removal of office bearer of the society merely by passing motion of no confidence without citing any reason. Since the consequences are drastic, and a stigma gets attached to

the person removed from office of the society, strict compliance with statutory provisions would become mandatory. Any laxity in non-following of the mandatory provisions stipulated under Section 73-ID and Section 154B-24 would render a motion of no confidence nugatory. Since the provisions of Section 73-ID or Section 154B-24 do not deal with the peculiar situation created in the present case, the Courts would tend to interpret the said provisions in favour of the office bearer who is sought to be removed rather than construing the same against him/her. In the present case, one of the Managing Committee members (*Petitioner No.1*) was never invited to attend the Special Meeting convened by the Deputy Registrar on 15 April 2026. She has been denied the opportunity to vote in such meeting. Therefore, there appears to be violation of provisions of Section 154B-24(1) of the M.C.S. Act.

28) In the present case, appointment of Petitioner No. 1 as managing committee member was not aimed at somehow protecting the position of the Chairman or for preventing adoption of no confidence motion. SGBM for termination of the developer was attempted to be held since 5 March 2026. Also, the managing committee had proposed to add tenth member by issuing notice dated 4 April 2026, i.e. two days before the requisition was signed and sent by the six managing committee members for removal of Petitioner No. 2. Thus, before Respondent Nos. 1 to 6 made up their mind to remove the Chairman, agenda for appointment of Petitioner No. 1 was included in the Notice dated 4 April 2026. Respondent Nos. 1 to 6 were thus fully aware of the position that 10th member was likely to be included in the managing committee. But they still persuaded Respondent No. 10 to believe that there were only 9

committee members and that 6 votes constituted two-third majority. It appears that Respondent Nos. 1 to 6 never intended to recognize the voting rights of Petitioner No. 1 which is clear from their subsequent action in convening meeting dated 2 May 2026 for appointment of new Chairman without giving notice to Petitioner No. 1.

29) The expression '*Committee Members who are present and entitled to vote*' is required to be interpreted to mean such committee members who are invited to attend the meeting, who are present and who are entitled to vote. A member who is never called upon to attend the special meeting would not be covered by the expression '*Committee Members who are present and entitled to vote*'. Since Petitioner No. 1 was never issued notice for attending the special meeting scheduled to be held on 15 April 2026, there was no occasion for her to remain present in the said meeting. Therefore, non-presence of Petitioner No.1 in the Special Meeting convened on 15 April 2026 cannot be a reason for not counting her in the total working strength of the managing committee for arriving at the two-third majority number for strict compliance with the provisions of sub-section (1) of Section 154B-24 of the MCS Act.

30) Provision of opportunity to Petitioner No.1 to remain present in the Special Meeting and to vote for or against motion of no confidence is not an empty formality in the present case. If Petitioner No.1 was given an opportunity to vote in the Special Meeting, she would have apparently voted against the motion of no confidence. This is apparent from the fact that Petitioner No.1 has jointly filed the present Petition with Petitioner No.2. This essentially means that as of now, Petitioner

No.1 is not in favour of removal of Petitioner No.2 as Chairman of the Society. Thus, if Petitioner No.1 was provided an opportunity to vote in the Special Meeting, there would have been 6 votes in favour of the Motion and 4 votes against the Motion. This would not constitute two third majority contemplated under Section 154B-24(1) of the MCS Act. Two third of 10 votes would be 6.67 votes. In *Radhakishan Sadarangani* (supra), this Court has held that where two-third majority came to 5.33, the motion could not have been adopted by only 5 votes. This Court held that the fraction cannot be ignored under Section 73-ID of the MCS Act. This Court also held that since removal attaches stigma on the office bearer, provisions of Section 73-ID must be constructed strictly. It is held thus:

36. On 2nd August 2016, the respondent No. 5 i.e. Assistant Registrar of Co-operative Societies rejected the said no confidence motion moved by 5 members of the committee on the ground that $\frac{2}{3}$ rd majority out of 8 members would be 5.33 whereas only 5 members had voted in favour of “no confidence motion” against the remaining 3 members of the committee. The petitioner impugned the said order passed by the Assistant Registrar on 2nd August 2016 in this petition on various grounds.

45. A plain reading of section 73-1D clearly indicates that the said provision neither provided any relaxation for rounding off of fraction on lower side or higher side, as the case may be. In my view, if the interpretation of the learned counsel for the petitioners that $\frac{2}{3}$ rd majority which comes to 5.33 has to be read as 5 is accepted, $\frac{2}{3}$ rd majority of the members for passing “no confidence motion” against the managing committee members would be below the $\frac{2}{3}$ rd majority and thus would be in clear violation of section 73-1D(1) of the MCS Act. **In my view, no words can be thus added in section 73-1D by this Court for providing any relaxation or rounding off the fraction.**

52. A perusal of section 73-1D(2) clearly provides that the requisition for convening such special meeting or presenting no confidence motion has to be signed by not less than $\frac{1}{3}$ rd of the total number of members of the committee who are entitled to elect the officer of the committee.

Similarly under section 73-AAA(5) which provides for 'constitution of committee' under the MCS Act clearly indicates that there is a specific provision for ignoring the fraction for determining $\frac{2}{3}$ rd of the number of members. **It is thus clear that when the legislature intended to provide for ignoring the fraction while determining the $\frac{2}{3}$ rd of the number of members under the provisions of section 73-AAA, the same has been specifically provided in the provision itself whereas admittedly no such words are inserted in section 73- ID providing to ignore the fraction in determining the $\frac{2}{3}$ rd majority of number of members.**

55. I am thus not inclined to accept the submission of Mr. Kanuga, learned counsel for the petitioners that if the fraction is not rounded off to five in this case though $\frac{2}{3}$ rd majority would be 5.33, the majority members of the managing committee would not be able to pass any resolution of 'no confidence motion' against the erring minority members of the managing committee who have been allegedly acting prejudicial to the interest of the society and its members. In the given case, it may be that out of 8 members of the managing committee though 5 members have voted in favour of 'no confidence motion' against the three members, in view of the provision of section 73-ID being silent and not empowering the authority to relax the said condition or to round off the fraction, such 'no confidence motion' failed. However, the petitioners are not precluded from adopting any other remedy available in law against such erring members of the managing committee under other provisions of the MCS Act and MCS Rules. The said provision does not provide for simple majority but two third majority. **In my view passing of no confidence motion against any managing committee member of a society may amount to stigma against such member and thus section 73-1D has to be construed strictly.**

(emphasis supplied)

31) In the present case as well, the fraction of 0.67 cannot be ignored and only 6 votes in favour of the motion would not constitute two-third majority required under Section 154B-24 of the MCS Act. Thus, denial of opportunity to Petitioner No.1 to vote in the Special Meeting renders the Resolution as well as decision of Deputy Registrar of 15 April 2026 illegal and void.

32) Respondent No.10 (*Deputy Registrar*) was clearly made aware of appointment of Petitioner No.1 as the Managing Committee member. True it is that he is statutorily prohibited from adjourning the meeting. However, that prohibition does not prevent him from ruling in the special meeting that the tenth member was also entitled to vote and that therefore, the motion was not validly adopted in the facts of the present case.

33) In the present case, Petitioner No.2 is removed from the position of Chairman of the Society by leveling accusation of creating hindrances in the redevelopment work of the Society by misguiding the members. However, the fact remains that the General Body of the Society has adopted Resolution for termination of the Developer on 15 April 2026 where 53 out of 73 members have voted in favour of termination. Thus a unique situation is created where the Chairman is removed by 6 managing committee members alleging creation of hurdles in the redevelopment work and for misguiding the members, whereas the developer's appointment is terminated by the General Body of the Society. Be that as it may. This Court cannot go in the wisdom of Managing Committee members in adopting no confidence motion against the Chairman. The law does not even require citing of any reason for adopting the motion of no confidence. The discussions in the Special Meeting may be relevant for the purpose of affecting the minds of the voters. However, once motion is passed with majority of two-third members who are present and are entitled to vote, the Court need not go into the merits of such decision.

34) Mr. Bhadrashete has strenuously highlighted the position that Petitioner No.1 did not make any attempts to remain present in the meeting of 15 April 2026. In my view, this objection of Mr. Bhadrashete is stated only to be rejected. When Petitioner No.1 did not have any notice in respect of the meeting convened on 15 April 2026, there is no question of she making any efforts to remain present in the said meeting. The meeting was held behind the back of Petitioner No.1 by deliberately denying her an opportunity to vote. Mr. Bhadrashete has also contended that Petitioner No.2 did not raise the issue of entitlement of Petitioner No.1 to vote in the meeting of 15 April 2026. This factor is again irrelevant. Holding of meeting of 15 April 2026 behind the back of Petitioner No.1 is an illegal act and the same cannot be given the flavor of legality merely because Petitioner No.2 failed to raise objection about non-invitation to Petitioner No.1 to attend the meeting.

35) Considering the above position, in my view, the Resolution adopted by the Managing Committee of the Society on 15 April 2026 for passing motion of no confidence against Petitioner No.2 as well as decision and certificate of Respondent No.10 (*Deputy Registrar*) are illegal and void *ab initio* and the same are liable to be set aside. Since Resolution and decision dated 15 April 2026 are *ab initio* void, the post of Chairman did not fall vacant and Petitioner No.2 continues to occupy the said post validly. Consequently, the subsequent action taken by the Society in convening fresh meeting vide notice dated 25 April 2026 and adopting Resolution for electing the Chairman vide Resolution dated 2 May 2026 are automatically rendered illegal and void. Since post of

Chairman did not become vacant, convening of special meeting on 2 May 2026 and adopting resolution for appointment of new Chairman was unnecessary.

36) Also, a premium to the illegality is added when the notice dated 25 April 2026 is not even addressed to Petitioner No.1, who is validly appointed as member of the Managing Committee on 12 April 2026. Thus, in addition to denial of opportunity to remain present and vote in the Special Meeting of 15 April 2026, the Secretary of the Society did not invite Petitioner No.1 even for holding election to the post of Chairman in the meeting of 2 May 2026.

37) Considering the overall conspectus of the case, I am of the view that the impugned motion of no confidence adopted by the Managing Committee in the Special Meeting held on 15 April 2026 as well as decision of Respondent No.10 dated 15 April 2026 are *ex facie* illegal and are liable to be set aside. Consequently, further action in electing new Chairman of the Society in the meeting held on 2 May 2026 is also rendered illegal. Petitioner No.2 continues to hold the position of Chairman of the Society, which position has not remained vacant. However, it needs to be clarified that though the position of Petitioner No.2 as Chairman of the Society is restored, it would always be open to the other Managing Committee members to sign a fresh requisition for convening another special meeting of the Managing Committee and provisions of sub-section (7) of Section 73-ID of the M.C.S. Act would not come in the way of holding of a fresh special meeting. This is

because there is no rejection of the motion as contemplated under Section 73-ID(7).

38) I accordingly proceed to pass the following order:

- (i) Resolution of the Managing Committee dated 15 April 2026 adopting motion of no confidence against Petitioner No.2 as well as decision and certificate of Respondent No.10 (*Deputy Registrar*) dated 15 April 2026 are set aside.
- (ii) It is declared that the position of the Chairman of the Society did not fall vacant on 15 April 2026 and Petitioner No.2 continues to occupy the position of Chairman of the Society.
- (iii) Consequently, the Resolution adopted by the Society in the Special Meeting of the Managing Committee held on 2 May 2026 appointing new Chairman is also set aside
- (iv) Other Managing Committee members would be at liberty to sign a fresh requisition for adopting motion of no confidence against Petitioner No.2.

39) With the above directions, the Writ Petition is allowed. Rule is made absolute. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

40) After the judgment is pronounced, the learned counsel appearing for Respondent Nos.1 to 6 and 9 prays for stay of operative part of the judgment for a period of six weeks. However, considering the nature of findings recorded in the judgment, I am not inclined to stay the operative directions. The request is accordingly rejected.

[SANDEEP V. MARNE, J.]

NEETA
SHAILESH
SAWANT

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2026.06.12
19:13:35
+0530