

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 1991 OF 2026

IN

SUIT (L) NO. 40352 OF 2025

Infrastructure Logistics Systems Pvt Ltd

...Applicant

Versus

District Deputy Registrar Co-operative Societies

Mumbai Iii And The Competent Authority

...Defendant

Mr. Amey Nargolkar a/w Ms. Akshata Jadhav for the Applicant/Plaintiff.

CORAM : ARIF S. DOCTOR, J.

DATE : 27th APRIL, 2026

P.C.

1. The present Interim Application seeks the following reliefs:

"a. Grant leave to the Applicant to institute the present suit against the Respondents without serving the formal notice required under Section 80(1) of the CPC;

b. Waive the statutory waiting period of two months in view of the prior knowledge of the Respondent no. 1 and the directions passed in Civil Writ Petition No. 2027 of 2015, 2022 of 2015 and 2025 of 2015;"

2. A copy of the Interim Application along with notice of hearing, has been duly served upon Respondent No. 1, however none is present.

3. I have heard learned counsel for the Applicant and perused the material on record. In the facts and circumstances of the present case, I am satisfied that the Application merits acceptance.

4. Mr. Nargolkar, Learned Counsel for the Applicant has then submitted that the dispute forming the subject matter of the present Suit had earlier been agitated by the Applicant in Civil Writ Petition Nos. 2027 of 2016, 2022 of 2016, and 2025 of 2016, wherein Respondent No. 1 was a party and was duly represented by Counsel. He submitted that by a common order dated 1st October 2025, the said Writ Petitions were disposed of, granting liberty to the Applicant to institute an appropriate Civil Suit within a period of ten weeks from the date of the order.

5. Mr. Nargolkar submitted that the present Suit has been instituted pursuant to the aforesaid liberty.

6. He then submitted that the object underlying Section 80 of the Code of Civil Procedure, 1908, is to afford the Government or a public authority an opportunity to consider the claim and, if so advised, settle the matter without recourse to litigation. The provision is intended to prevent surprise and ensure that the State is put on prior notice of the claim.

7. In the present case, he submitted that object stands substantially fulfilled since the earlier writ proceedings, in which Respondent No. 1 actively participated, made known to Respondent No. 1 the entirety of the Applicant's grievance. He also pointed out that the common order dated 1st October 2025, was passed in the presence of Respondent No. 1's counsel.

8. He submitted that requiring the Applicant to now comply with the formal requirement of issuing a notice under Section 80 would, in the facts of the present case, not advance the underlying purpose of the provision. On the

contrary, it would operate to defeat the timeline expressly fixed by this Court, which granted only ten weeks for institution of the Suit and infact compliance thereof would, in effect, defeat the liberty granted.

9. Having heard Mr. Nargolkar and having considered the material which has been relied upon, I find merit in the submission which has been advanced by him. Furthermore, Respondent No. 1, though served, has chosen not to appear or oppose the reliefs sought. In these circumstances, I find that the Applicant has made out a case for the grant of reliefs as prayed for. Hence the following Order:

- i. The Interim Application is accordingly allowed in terms of prayer clauses (a) and (b).
- ii. No Costs.
- iii. Interim Application is disposed off accordingly.

[ARIF S. DOCTOR, J.]