IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15515 OF 2026

Alongwith

WRIT PETITION NO. 15516 OF 2026

Mr. Ranjeet Bhattacharya & Ors. ***.... Petitioners***

: Versus :

Divisional Joint Registrar, Co-operative ***... Respondents***

Societies & Ors.

Mr. Karl Tamboly *with Ms. Vaishali Sanghavi, Ms. Vidhi Porwal, Mr. Zahan Setalvad, Mr. Ameet Mehta i/b. M/s. Solicis Lex, for the Petitioners.*

Mr. Saurav N. Katkar *i/b. Ms. Anju Mane and Mr. Ajinkya Desai, for Respondent No.3.*

Mr. Kishor Patil *i/b. Mr. Amar Parsekar and Mr. Pratik Rahade, Mr. Anish Kikle and Ms. Akshada Nagrale, for Intervenor/caveators.*

Mr. Mukesh M. Vashi, Senior Advocate *with Ms. Jaineel Vashi i/b. M.P. Vashi & Associates, for Intervenor (Developer).*

Ms. Anjali A. Purav, *AGP for State in WP-15515 of 2026.*

Mr. Aniruddha A. Garge, *'B' Panel Counsel with Ms. Anjali A. Purav, AGP for State in WP-15516 of 2026.*

CORAM: SANDEEP V. MARNE, J.

DATED: 25 NOVEMBER, 2026.

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Oral Judgment:

1) ***Rule*** in both the Petitions. Rule is made returnable forthwith. With the consent of the learned counsel appearing for the parries, the Petitions are taken up for final disposal.

2) Petitioners are aggrieved by the decision of the Hon'ble Minister (Cooperation) and of the Deputy Registrar appointing an official from the Government panel as the administrative committee for looking after day-to-day affairs of the society and for conduct of its elections. Writ Petition No. 15516 of 2026 is filed challenging the order passed by the Hon'ble Minister (Co-operation) on 28 October 2026 dismissing Revision Application No. 493 of 2026 preferred by the Petitioners and confirming the order dated 13 August 2026 passed by the Divisional Joint Registrar dismissing the Appeal and in turn confirming Deputy Registrar's order dated 24 July 2026. By his order dated 24 July 2026, the Deputy Registrar had exercised powers under Section 77A(1)(b-1) of the Maharashtra Co-operative Societies Act, 1960 **(MCS Act)** and had appointed a Committee of three persons as authorised board for conduct of elections after noticing stalemate in the Managing Committee. The Hon'ble Minister, though has upheld the finding of existence of stalemate, has set aside the appointment of the authorised committee and has directed appointment of authorised officer from State Government panel by the Deputy Registrar. Accordingly, by order dated 17 November 2026, the Deputy registrar has appointed Simran Joe D'souza has the authorised officer for conduct of

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elections of the society, which is the subject matter of challenge in Writ Petition No. 15516 of 2026.

3) I have heard Mr. Tamboly, learned counsel appearing for the Petitioner, Mr. Katkar, learned counsel for Respondent No.3, Mr. Patil for Intervenors/Caveators, Mr. Vashi, learned Senior Advocate on behalf of the developer and Ms. Purav, learned AGP for State. I have considered the submissions canvassed by them.

4) It appears that the society had elected 10 managing committee members. The required number for constituting a valid quoram was 7. After resignation by 5 members of the Committee, the remaining 5 members could not constitute the requisite quorum. Therefore Mr. Tamboly fairly submits that Petitioners do not desire to question the correctness of findings recorded by the Deputy Registrar, Divisional Joint Registrar and the Hon'ble Minister about existence of stalemate in the committee within the meaning of Clause-(b-1) of sub-section (1) of Section 77A. He submits that the challenge in the present petitions is confined only to the appointment of authorised officer from the government panel. He submits that in the light of availability of five non-disqualified members of the Managing Committee, the Hon'ble Minister could not have directed appointment of authorised officer from government panel for the purpose of holding of elections.

5) Under the provisions of Section 77A(b-1), when there is stalemate in the constitution or where committee has ceased to

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function and a vacuum is created in the management, the Registrar can appoint any member or members of the society to be the member or members of the committee to fill in the vacancies. This is not possible in the present case as the managing committee had become non-existent in which vacancies could not be filled up. The other option left for the Registrar is to appoint a committee consisting of not more than three members of the society or one or more authorised officers, who are not members of the society, to manage the affairs of the society till a new committee enters upon office. Clause-(b-1) of sub-section (1) of Section 77A provides thus:

> **77A. Appointment of member of committee, new committee, authorised officers, where there is failure to elect member to constitute committee or where committee does not enter upon office, etc.**
>
> (1) Where the Registrar is satisfied that,-
>
> (1-a)
>
> (a)
>
> (b)
>
> (b-1) there is a stalemate in the constitution or committee has ceased to function and vacuum is created in the management.
>
> (c)
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> (d)
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> (e)
>
> (f)
>
> the Registrar may, either suo-motu or on the application of any officer or member of the society by order appoint-
>
> (i) any member or members of the society to be the member or members of the committee to fill the vacancies;
>
> **(ii) a committee, consisting of not more than three members of the society, or one or more authorised officers, who need not be members of the society, to**

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> **manage the affairs of the society till a new committee enters upon office:**
>
> *(emphasis added)*

6) Thus, under Section 77A(1)(b-1) of the Act, to manage the affairs of the society till new managing committee enters upon the office, the Registrar has two options of appointing either (i) a committee consisting of not more than three members of the society (**the first option**), or (ii) one or more authorised officers, who are not members of the society (**the second option**). Clause-(ii) of Section 77A(1) does not provide any guidance as to the exact option to be exercised by the Registrar while appointing a committee and leave the matter for decision by the Registrar. He apparently has both the options open. However there is no absolute discretion vested in the Registrar for choosing either of the two options. He cannot proceed to appoint an external committee by way of his whims. By a juridical pronouncement, this Court has provided for a guidance to the Registrar about the manner in which the two options are to be exercised. In ***Vijay Lakhi & Ors. Versus. Minister of Co-operation, Department of Co-operation, Marketing and Textiles & Ors.***[1] this Court had an occasion to deal with options available to the Registrar while exercising powers under Section 77A(1)(b-1)(ii) of the MCS Act. This Court held in paras-35 and 108 of the judgment as under:

> 35. **The expression 'one or more authorised officers' of Section 77A(1) is the last and most drastic option. It comes into play only when neither clause (i) nor clause (ii) can work. This is when members of the society are unwilling, unable or unsuitable to**

1 Writ Petition No. 11625 of 2025 decided on 6 October 2025

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> **manage the society, or when rival groups are fighting such that no internal committee can function fairly.** In such cases, the Registrar is allowed to appoint one or more authorised officers, who may even be outsiders, to run the affairs of the society for a limited period.
>
> 108. The learned Senior Advocate for the petitioners argued that instead of appointing an outsider as authorised officer, the Registrar ought to have appointed the remaining minority elected members by exercising power under clause (ii) of Section 77A. This submission has some force. **The scheme of Section 77A shows that preference should be given to members of the society itself, and outsiders can be brought in only as a last resort. Therefore, if the remaining elected members are not disqualified under the Act and if their inclusion would not aggravate the existing dispute, then the Registrar is expected to consider their appointment in preference to outsiders.**
>
> *(emphasis added)*

7) Thus, as held by this Court in ***Vijay Lakhi*** (supra), appointment of '*one or more authorised officers*' (*second option*) is the last and the most drastic option and that the same comes into play only when the first option of appointment of committee consisting of more than three members of the society is not available. This Court has discussed the situations in which Registrar can form an opinion that the first option of appointing a committee of not more than three members of the society cannot be exercised by holding that such option needs to be exercised only when members of the society are unwilling, unable or unsuitable to manage the society or when rival groups are fighting such that no internal committee can function fairly. It is further held in para-108 of the judgment that if the remaining elected members are not disqualified under the Act and if their inclusion would not aggravate the

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existing dispute, then the Registrar is expected to consider their appointment in preference to outsiders.

8) In the present case, the Hon'ble Minister has apparently not recorded any reason for not exercising the first option of appointing a Committee of not more than three members of the society and for opting for the last resort of appointing committee of an outsider. There is no finding recorded by the Hon'ble Minister that the members of the society are either unwilling or unsuitable to act as members of the committee. There is also no finding to the effect that the two rival groups are fighting to such an extent that no internal committee can function fairly. However, Mr. Patil invites the attention of this Court to the following findings recorded by the Hon'ble Minister in support of his contention that two rival groups in the society are fighting to such an extent that no internal committee can function properly:

> त्यामुळे वरील सर्व बाबींचा विचार करता, प्रतिवादी क्र. ४ संस्थेच्या समितीची रचना अल्पमतात आल्याचे प्रतिवादी क्र. १ व २ यांचे निरीक्षण योग्य असून प्रतिवादी क्र. ४ संस्थेवर कलम ७७अ अन्वये झालेली कार्यवाही कायम करणे उचित वाटते. तथापि प्रतिवादी क्र. २ यांनी नियुक्त केलेले प्राधिकृत मंडळ योग्य त्या पडताळणी अभावी नियुक्त केले असल्याने आणि या मंडळाच्या नेमणुकीने संस्थेच्या दोन गटातील विवाद वाढत असल्याने त्यामध्ये बदल करणे आवश्यक वाटते. यास्तव मी खालीलप्रमाणे आदेश देत आहे.

9) The above quoted finding by the Hon’ble Minister is in the context of the need to change the administrative committee in the light of the disputes between the two factions. in my view, the above reason

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recorded by the Hon'ble Minister does not indicate taking of a conscious decision by the Hon'ble Minister that appointment of an external committee is necessary as the first option was wither not feasible or unworkable. In the above quoted reasons, the Hon’ble Minister has held that the Deputy Registrar had erroneously appointed committee of persons without verifying even their eligibility. The Hon'ble Minister has not really considered the two available options and has not recorded any specific finding for choosing the second option over the first one. Since appointment of an external committee should be by way of last resort, the Hon’ble Minister has erred in not exploring the first option of appointing an internal committee.

10) In the present case, there are five elected managing committee members who are willing to be a part of the administrative committee for the purpose of conduct of elections. In my view therefore, the Hon'ble Minister ought to have opted for the former option in the light of availability of willing and non-disqualified members of the managing committee. Though there might to two rival factions in the society over the issue of redevelopment, there is no material to infer that the internal committee would be a able to fairly function or that appointment of the external committee was the only option left. The appointment of elected managing committee members over the demonstrative committee would not aggravate the existing disputes since their appointment is only for the limited purpose of holding of elections. They obviously cannot take any major policy decisions concerning the society.

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11) At this juncture, Mr. Vashi, the learned Senior Advocate appearing for the developer submits that the developer has initiated arbitration proceedings and the learned arbitrator is unable to proceed ahead in the arbitration proceeding on account of disputes about the exact person who can represent the society before the arbitrator. Since the committee comprising of non-disqualified elected managing committee members is now being constituted, such committee can obviously represent the society before the arbitrator, subject a caveat that such committee cannot take any major policy decisions including a decision to compromise the claim in the arbitral proceedings.

12) In view of the above discussion, Clause-3 of order dated 28 October 2026 passed by the Hon'ble Minister, as well as order dated 17 November 2026 directing appointment of official from the government panel is unsustainable. Consequently, the order passed by the Deputy Registrar dated 17 November 2026 appointing deserves to be set aside.

13) Petitions accordingly succeed in part and I proceed to pass the following order:

(i) Clause-3 of the order dated 28 October 2026 passed by the Hon'ble Minister (Co-operation) directing appointment of authorised officer from the government panel, as well as, order dated 17 November 2026 passed by the Deputy Registrar appointing Simran Joe D'souza are set aside.

(ii) The Deputy Registrar shall appoint a Committee consisting of not more than three members of the society, from amongst

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the five non-disqualified managing committee members, as expeditiously as possible, preferably within a period of one week.

(iii) For that purpose, the willing managing committee members shall apply to the Deputy Registrar.

(iv) The committee so constituted shall not take any major policy decisions regarding the society and shall only look after day-to-day management of affairs of the society.

(v) The committee shall also endeavour to conduct elections for constitution of new managing committee within the limit of 2 months.

14) With the above directions, the Writ Petitions are partly allowed and disposed of. Rule is made absolute in both the Petitions. There shall be no orders as to costs.

NEETA SHAILESH SAWANT
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[SANDEEP V. MARNE , J.]

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