



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.7536 OF 2025

Devendra Kumar Jain
B-2, Flat No. 1, Ground Floor,
Ramanuj Co-Op Hsg. Society Ltd.,
Mahesh Nagar, S.V. Road,
Goregaon-West, Mumbai-400 104

...Petitioner

Versus

1. State of Maharashtra
through Principal Secretary Co-operative
Department Mantralaya,
Mumbai-400 020.

2. Deputy Registrar, C.S.,
P/Ward, Mumbai
C-Wing, BMC Godown Building,
90 Feet Road, Thakur Complex,
Kandivali-East, Mumbai- 400 101

3. Ramanuj Co-op Hsg. Society Ltd.
Mahesh Nagar, S.V. Road,
Goregaon-West, Mumbai-400 104.

4. Cunki Realty and Developer Pvt. Ltd.
A2, 2nd Floor, Madhu Estate,
Pandurang Budhkar Marg, Lower Parel,
Mumbai-400 013.

...Respondents

Mr. Manoj Upadhyay a/w Mr. Rakesh Mishra, for the Petitioner.
Mr. Rakesh Pathak, AGP, for the Respondent-State.
Mr. Mukesh Vashi, Senior Advocate, a/w Ms. Vaishali Sanghavi, Mr.
Pratik Shetty, Ms. Palak Mehta, Ms. Prachi Parmar and Mr.

Ameet Mehta i/b. M/s. Solicis Lex, for Respondent No.3.
Mr. Abhishek Sawant a/w Mr. Karan Bhargava, for the Respondent
No.4.

CORAM : **SUMAN SHYAM &
MANJUSHA DESHPANDE, JJ.**

RESERVED ON : **19TH SEPTEMBER 2025.**
PRONOUNCED ON : **06TH OCTOBER 2025.**

JUDGMENT :- (PER MANJUSHA DESHPANDE, J.)

1. The Petitioner has raised a challenge to the redevelopment process undertaken by the Respondent No.3-Society, by issuing Letter of Intent favoring the Respondent No.4-Developer, without following the mandatory process of issuing tenders as contemplated in the notification issued by the State Government dated 04.07.2019.

2. The Petitioner further prays to issue directions to the Respondent No.2-Deputy Registrar to carry out fresh redevelopment process for the Respondent No.3-Society under his supervision, in accordance with the guidelines framed by the Respondent No.1, as contained in the notification dated 04.07.2019.

3. The Petitioner is an Ex-Chairman of the Respondent No.3-Society, who has been removed from the post of Chairman in the meeting of the Co-operative Housing Society held on 03.10.2023. During the tenure of the Petitioner as a Chairman, the Respondent No.3-Society approached the Respondent No.4- Landlord-Cum-Developer of the plot, for granting development rights of the

Respondent No.3-Society. The Petitioner, who was not in favour of the proposed redevelopment being undertaken purportedly without following the due procedure of law, opposed it. It is alleged by him that, after his removal as a Chairman of the Respondent No.3-Society on 03.10.2023, the Respondent No.3-Society, without following the mandatory procedure in order to favour the Respondent No.4, has issued Letter of Intent to the Respondent No.4 without following the tender process.

4. The Petitioner has raised grievance before the Respondent No.2-Deputy Registrar, bringing to his notice that the Respondent No.3-Society has failed to follow the procedure while awarding the redevelopment contract to the Respondent No.4. The Respondent No.2-Deputy Registrar issued a notice to the Respondent No.3-Society on 13.02.2024. The Petitioner filed complaint under Sections 75(5), 77(A) and 78(1) of the Maharashtra Co-operative Societies Act, 1960 (for short “**the MCS Act**”). Pursuant to the complaint filed by the Petitioner, the Deputy Registrar issued Show Cause Notice, to the Members of Managing Committee of the Respondent No.3.

5. It is alleged that during pendency of such proceedings, the Respondent No.3-Society passed illegal resolutions, during the Special General Body Meeting dated 29.09.2024, wherein a draft Letter of Intent was circulated by the Respondent No.3, favoring the Respondent No.4. According to the Petitioner, the Respondent No.3-Society, with *mala fide* intention, without following the Model Bye Laws No.175(a) and (b) of the Housing Society, and without adhering to the directives issued by the State Government,

vide Government Resolution (for short “GR”) dated 04.07.2019, under Section 79(A) of the MCS Act, is in the process of appointing Respondent No.4 as a Developer, which needs to be interfered with by this Court.

6. Mr. Manoj Upadhyay, learned Counsel appearing for the Petitioner submits that the Respondent No.3-Society is bent upon appointing the Respondent No.4 as a Developer of the Society without adhering to the mandatory directions, issued under Section 79(A) of the MCS Act vide GR dated 04.07.2019, which provides for the modalities to be observed while undertaking redevelopment of Co-operative Housing Societies. After removal of petitioner from the post of Chairman, the Managing Committee Members are resorting to a procedure, giving a go-by to the tender process, which is mandatory as per the guidelines issued by the Government.

7. It is submitted that the Respondent No.3-Society is duty-bound to float tender, by inviting offers from various Developers. It is alleged that, though several Developers have shown interest in redevelopment of the Respondent No.3-Society, yet, they were not allowed to participate in the process by favoring the Respondent No.4. As per the Model Bye-Laws, a representative of the Respondent No.2-Deputy Registrar is required to attend the Special General Body Meeting convened for appointing a Developer. The Respondent No.3-Society, acting in contravention of the aforementioned bye-laws, did not inform the Respondent No.2-Deputy Registrar and no such representative from the office of the Respondent No.2 was present during the proceedings of the

Special General Body Meeting of the Respondent No.3-Society. It is his submission that the action taken by the Respondent No.3 is in colourable exercise of their powers.

8. In support of his submissions, the learned Counsel appearing for the Petitioner relies on the decision rendered by a Co-ordinate Bench of this Court in the case of ***Pravati Co-operative Housing Society V/s. Vijay Anant Nagwekar & 23 Ors.*** dated 28.07.2025 [Coram : G.S. Kulkarni & Arif S. Doctor, JJ.].

9. Mr. Mukesh Vashi, learned Senior Counsel appearing for the Respondent No.3, has strongly opposed the prayer made by the Petitioner. According to him, the Petitioner has failed to place on record the true and correct facts of the present case. The subject matter of the present Writ Petition pertains to a larger redevelopment initiative known as 'Mahesh Nagar Federation' located at CTS No.1384, 918 and 907, situated on S.V. Road, Goregaon (West), Village Malad-South, Mumbai. This redevelopment is a cluster development comprising of four Co-operative Housing Societies, namely, Bal Ratna Co-operative Housing Society Ltd., Niwas Ratna Co-operative Housing Society Ltd., Banshi Ratna Co-operative Housing Society Ltd., and Ramanuj Co-operative Housing Society Ltd., i.e, the Respondent No.3 in the present Writ Petition. All these four Societies have agreed to jointly redevelop under the umbrella of 'Mahesh Nagar Federation'. Out of total 391 Members of all the four Societies, 323 Members have consented and accepted the offer of the Respondent No.4.

10. The Respondent No.3-Society was formed in the year 1972, having a total of 83 Members, duly registered under the provisions of the MCS Act. Since the building is constructed prior to 1972, repairs were required to be undertaken during the year 2004-2005, and again in the year 2007. Immediately within seven years, in the year 2014, issue regarding repairs of the Society was discussed and accordingly, substantial expenses were incurred by the Society.

11. A Special General Body Meeting was convened on 31.01.2021, in the Respondent No.3-Society to address the need for major repair work. During the meeting, the Members were called upon to give their approval for the proposed repair of the building, which would approximately cost Rs. 80 lakhs, alongwith escalation clause of 20%. Since the Society was not in a sound financial position, it was decided that instead of incurring huge amount in repairs, it would be appropriate to pursue redevelopment of the Society by adhering to the guidelines and directives issued by the Government under Section 79(A) of the MCS Act.

12. In the Special General Body Meeting of the Respondent No.3-Society convened on 23.03.2025, out of total 83 Members, 77 Members attended the meeting and 76 Members gave their consent for the appointment of the Respondent No.4-Developer. The only Member, who did not give his consent is the Petitioner-Devendra Kumar Jain. The Majority of the Members have given their consent for the redevelopment by the Respondent No.4. Though Petitioner is a Member of the Respondent No.3, he is not facing hardships or unsafe conditions, since he is utilizing his flat

on the ground floor exclusively meant for office and commercial purpose. Therefore, the Petitioner who is the only dissenting Member, cannot be allowed to obstruct the redevelopment process, which is approved by the majority.

13. Additionally, though this is a 'cluster development', the Petitioner has failed to add the other three Co-operative Housing Societies, as necessary parties. Though duly intimated about the Special General Body Meeting, the Petitioner has willfully chosen not to attend the meeting. Although it is alleged by the Petitioner that unilateral decision has been taken by the Respondent No.3, the notice dated 22.12.2023, has been issued by the Petitioner himself in the capacity of Chairman of the Respondent No.3-Society calling upon the Society Members to give their thoughts and inputs on the proposal submitted by the Respondent no.4.

14. It is also submitted that in view of the Communication dated 22.12.2023, addressed by the Petitioner to the Deputy Registrar, Co-operative Societies, P-Ward, Mumbai, the Deputy Registrar has called upon the Respondent No.3-Society to explain and submit a report whether the provisions of Section 79(A) as well as the GR dated 04.07.2019, laying down the guidelines for redevelopment, have been followed. The said notice of the Respondent No.2 has been challenged by the Respondent No.3 in Appeal No.294 of 2024 before the Divisional Joint Registrar, Co-operative Societies, Mumbai Division. The Appeal was allowed, vide order dated 30.01.2025 and the impugned order dated 18.11.2024, passed by the Deputy Registrar, Co-operative Societies, P-Ward, Mumbai, issued under Section 75(5) r/w Section 77(A) of the MCS Act, has

been quashed and set aside, which is subjected to further challenge in Writ Petition No. 7566 of 2025.

15. According to the Respondent No.3, they have diligently followed the procedure of redevelopment by complying with the relevant, procedural guidelines laid down in the GR dated 04.07.2019. The Respondent No.4 is a Landlord as well as Developer, hence, preference is given to him. Though preference was given to the Respondent No.4, all other tender opportunities remained open and available to other interested Developers. The other interested Developers, who had shown interest in the redevelopment, merely conveyed letters of interest and no formal offer were made by them. There was nothing received from them for final evaluation and comparison between them and the Respondent No.4. Therefore, the allegations regarding unfair preference to the Respondent No.4 are baseless and without merits.

16. The learned Counsel appearing for the Respondent further submits that in compliance of the GR dated 04.07.2019, Mr. Dharmendra Shinde was duly appointed as the Authorized Officer by the Deputy Registrar of the Co-operative Societies, 'P' South Ward, Mumbai. The Authorized Officer was present during the Special General Body Meeting conducted for appointing the Developer. In his presence, the meeting was videographed and he submitted his report on 25.03.2025. Based upon the report dated 25.03.2025, the Deputy Registrar, Co-operative Societies, P-Ward, Mumbai, has given NOC to the Respondent No.3-Society for the redevelopment. This NOC has not been challenged by the

Petitioner. The Respondent No.3 has not violated any of the conditions under Section 79(A) of the MCS Act. The Respondent No.4 has been appointed by the majority Members of the Society in the Special General Body Meeting conducted on 23.03.2025, which is in compliance with the guidelines under the GR dated 04.07.2019. According to him, the guidelines contained in the GR are not mandatory, but directory, prescribing procedure or a framework to be followed during the redevelopment. Hence, the Writ Petition filed by the Petitioner is against the will of the majority Members of the Respondent No.3. As such, it does not deserve any consideration, Even on merits, the Writ Petition deserves to be dismissed.

17. A similar stand opposing the prayer of the Petitioner is taken by the Respondent No.4, who has been issued Letter of Intent for redevelopment of the Respondent No.3-Society, along with other three Societies, as a cluster initiative involving four Co-operative Housing Societies. According to him, among the total 391 Members of all the four Societies, the majority of 323 Members, have given their written consent in favour of the redevelopment proposal submitted by the Respondent No.4. The Special General Body Meeting of the Respondent No.3-Society was strictly conducted in accordance with the guidelines issued in the GR dated 04.07.2019. A meeting was conducted in the presence of Authorized Officer of the Respondent No.2. Since the Respondent No.4 was associated with the Society as original Developer and was acquainted with its layout and structural design, he has submitted proposal for the redevelopment by draft Letter of Intent. In September 2024, the draft Letter of Intent was circulated among

all the Members of the Society. Only after considering of the proposal by the Members, majority have extended their written consent, expressing their strong support for redevelopment proposal as well as the appointment of the Respondent No.4-Developer. In view of the will of the majority, the objection of a Single Member does not deserve any consideration. Apart from the merits of the matter, the Respondent No.4 has also raised objection regarding availability of alternate remedy.

18. The learned AGP has drawn our attention to the Communication dated 06.03.2025, addressed to the Respondent No.3, informing that the Authorized Officer, namely, Dharmendra Shinde, Co-operative Officer Grade-II, has been appointed to conduct the Special General Body Meeting for redevelopment, by videographing the same and directed to submit a report to the Respondent No.2. It is submitted that, in furtherance of the appointment of the Authorized Officer, the concerned Authorized Officer has conducted the Special General Body Meeting on 23.03.2025 and has submitted his report to the Respondent No.2. Upon receiving the report, the respective Co-operative Housing Societies, including the Respondent No.3, has been informed that the Respondent No.2 has granted no objection for further steps to be taken for redevelopment. It is his submission that the Respondent No.2 has given no objection after following the guidelines as laid down in the GR dated 04.07.2019.

19. We have heard Mr. Manoj Upadhyay, learned Counsel appearing for the Petitioner, Mr. Rakesh Pathak, learned AGP for the Respondent-State, Mr. Mukesh Vashi, learned Senior Counsel

appearing for the Respondent No.3 and Mr. Abhishek Sawant, learned Counsel appearing for the Respondent No.4.

20. After giving due consideration to the documents and submissions of the respective parties, what we gather is that the Petitioner is the only Member of the Co-operative Housing Society, who has been aggrieved by the decision of redevelopment, as well as the appointment of the Respondent No.4 as a Developer. The appointment of the Respondent No.4 has been challenged by the Petitioner on the ground of non-adherence to Section 79(A) of the MCS Act and the procedure laid down in the GR dated 04.07.2019.

21. On perusal of the prayers made by the Petitioner, we find that the first prayer is to quash and set aside the entire procedure followed by the Letter of Intent issued by Respondent No.3–Society in favour of Respondent No.4–Developer for redevelopment, on the grounds that it was conducted without following the guidelines issued in the notification dated 04.07.2019. A further direction is sought to Respondent No.2–Deputy Registrar to carry out a fresh redevelopment process of Respondent No.3–Society under its supervision, in accordance with the guidelines issued by the Respondent No.1–State, vide notification dated 04.07.2019. In short, the Petitioner is challenging the decision making process followed by the Respondent No.3, while appointing the Respondent No.4-Developer. He has alleged *mala fides* against the Respondent No.3, claiming that he has been removed from his office as a Chairman of the Society and after his removal, a unilateral decision has been taken by the Respondent No.3.

22. However, on perusal of the papers, the allegation of the Petitioner do not appear to be correct, for the reason that during his tenure as Chairman, under his own signature, the Members of Respondent No.3–Society were informed that the Society proposes to appoint Respondent No.4 as Developer, and the Members were called upon to share their inputs and queries regarding the proposal. This communication was issued under the signature of the Petitioner, who was the then Chairman, along with the Secretary, on 22.12.2023. Thereafter, he has filed complaint before the Respondent No.2 on 01.01.2024 in response to which, a Show Cause Notice was issued to the Respondent No.3-Society, calling upon them to explain as to whether, while appointing the Respondent No.4, the procedure prescribed under Section 79(A) of the MCS Act and the notification dated 04.07.2019 has been scrupulously followed.

23. After taking into consideration a similar Policy issued by the State Government in 2009 and various orders passed by this Court in the context of the said Policy, following observations were made by this Court in the case of *Maya Developers V/s. Neelam R. Thakkar*¹, in Paragraph No. 78 and 79, which are as under :

“78. I will now consider the relevant portions of this Directive. It opens with these words:

Whereas, buildings of Co-operative Housing Societies in the State of Maharashtra are being redeveloped on a large scale. A number of complaints were received from members against managements of Co-operative Societies in which redevelopment is taking place. In respect of most of the Co-operative Housing societies, nature of complaints relating to redevelopment is as under:—

¹ 2016 SCC OnLine Bom 6947

1. *Not taking the members in confidence in the process of redevelopment.*
2. *There is no transparency in tender process.*
3. *Appointing contractors arbitrarily.*
4. *To work by violating provisions of Cooperative Act, Rules and Bye-Laws.*
5. *No orderliness in the work of Architect and Project Consultant.*
6. *Not planning Redevelopment Project Report.*
7. *Not adopting proper procedure in finalizing tenders.*
8. *There is no similarity in agreements with Developers.*

Whereas there is no concrete policy in respect of all above points of complaint and therefore Co-operation Commissioner and Registrar, Co-operative Societies, Maharashtra State, Pune had appointed a Study Group under the Chairmanship of Joint Registrar, Co-operative Societies (CIDCO) to study the complaints received at various levels and for consultations with all constituents working in the relevant fields. The said Study Group has expressed the opinion that it is essential to frame regulations for redevelopment of buildings of Co-operative Housing Societies after consultation with all the constituents in the field of Co-operative Housing.

Therefore the Government is issuing following directive under Section 79A of the Maharashtra Co-operative Societies Act, 1960

(Emphasis added)

79. This itself makes it clear that, notwithstanding the use of words like 'regulation', what the 2009 Directive seeks to set in place are a set of guidelines. This is also apparent from the fact that the Government chose to issue these under Section 79A rather than some other section of the Act. What is set out is a broad policy; and this stands to reason, for not every single provision of this Directive lends itself to strict compliance. Clauses 1, 2, 5, 7, 8 and 10 all use the word 'should', not 'must' or 'shall'. Clause 11 in terms says that the Development

Agreement 'should' contain some conditions and provisions but these are specifically subject to the terms and conditions approved by the General Body Meeting of the Society. This Directive must be read as a whole, and not in the manner Mr. Pai suggests by plucking out one clause here and another there. Read thus, it is clear that the whole of the 2009 Directive is recommendatory, not obligatory. If it were otherwise, and to be read as Mr. Pai would have me do, it would undermine the authority of the society in general meeting, and the fundamental democratic underpinnings of cooperative societies. When Mr. Pai asks that is it possible that a majority can decide the fate of all, the answer must be an unequivocal yes; that is the basis of the entire edifice of the MCSA, subject to specific statutory exceptions. It is impossible to accept his submission that the 2009 Directive is mandatory. It is, as Mr. Kapadia says, a broad road map, and was brought into existence to provide guidance when there were far too many problems in redevelopment of societies. Material compliance is more than sufficient; and it in no way undermines or detracts from the overall authority of the general body of a society's members. It is sufficient if participation, notice and disclosure are ensured. Where majority decisions are consistent with material compliance with the provisions of the Directive, that is surely enough."

24. In view of the of the observations made by this Court, there remains no doubt that the guidelines issued under Section 79(A) are only directory and not obligatory.

25. The notification dated 04.07.2019, is similar to the Policy issued by the Government under Section 79(A) of the MCS Act in 2009, which has been amended in 2019 with some changes. Therefore, in effect, this Court has dealt with the directives issued under Section 79(A) of the MCS Act and its binding character. This Court has pertinently observed that the object of the notification, is laying down the broad guidelines to streamline the procedure, since there was no concrete policy in respect of all the complaints received on various issues during the redevelopment.

26. The above view, taken by this Court in 2016, has been followed in various subsequent decisions, including one such decision in the case of *Harish Arora and Others v/s. Deputy Registrar of Co-operative Societies and Others*, wherein paragraph no. 47 of the said decision reads thus:

*“47. In view of this consistent judicial position, I hold that the Government Resolution of 4th July 2019 is directory in nature. Its guidelines are intended to be followed to ensure a fair and transparent redevelopment process; however, every deviation or procedural lapse by itself does not constitute actionable wrong unless it is shown to violate the object of the directives or violate some express statutory requirement. If the managing committee substantially adheres to the mandate, for example, by informing members, taking a majority vote, selecting a developer in a broadly competitive manner, then it cannot be said to have “failed to comply” merely because an arithmetical requirement or a documentation formality was not fulfilled to the letter. As observed in *Maya Developers (Supra)*, “it is sufficient if participation, notice and disclosure were ensured”, with majority will prevailing in a properly convened meeting. This ensures the autonomy of the cooperative society in decision-making, which is itself a goal of the cooperative law.”*

27. This Court has taken a view that the GR dated 04.07.2019, is not mandatory, but directory in nature. The guidelines are intended to be followed to ensure a fair and transparent redevelopment process. Therefore, every deviation and procedural lapse by itself does not constitute actionable wrong unless it is violative of the object of the directives or some statutory requirement.

28. A majority decision taken in a properly convened meeting will prevail. Thus, taking into consideration the consistent view expressed by this Court, the prayers made by the Petitioner are not maintainable, as the decision for appointment of the Respondent

No.4 has been taken by the majority, in accordance with law and it is done under the supervision of Authorized Officer of the Respondent No.2. No case for interference is made out by the Petitioner.

29. Even otherwise, considering the fact that the Petitioner has raised various disputed questions of facts, which cannot be gone into by this Court in a Writ Petition. The **Writ Petition, *sans merit*, as such, stands dismissed.**

(MANJUSHA DESHPANDE, J.)

(SUMAN SHYAM, J.)