



AGK

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

WRIT PETITION NO.6922 OF 2021

WITH

INTERIM APPLICATION NO.15703 OF 2023

AND

INTERIM APPLICATION NO.14197 OF 2023

ATUL
GANESH
KULKARNI
Digitally signed by
ATUL GANESH
KULKARNI
Date: 2025.10.14
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1. Smita Ambalal Patel,
Aged 64 years, residing in Flat No.B-12
2. Jivneet Kaur Chadha,
Aged 60 years, Flat No.A-2
3. Rivjot singh Chadha,
Aged 71 years, Flat No.A-3
4. Dr. Vijay Rohit Parekh,
Aged 70 years, r/at Flat No.A-5
5. Rajesh Roshan,
Aged 67 years, Flat No.A-6
6. Vibha Vijay Parekh,
Aged 70 years, Flat No.A-8
7. Indu D. Errunza
Aged 84 years, Flat No.A-9
8. Vihang Rajnikant Errunza,
Aged 78 years, Flat A-10
9. Rajendra Shantilal Shah,
Aged 74 years, Flat No.A-11
10. Dr. Dushyant Barfiwala,
Aged 58 years, Flat No.A-12
11. Dr. Smruti Vikram Sanghvi,
Aged 66 years, Flat No.A-14,
12. Dr. Vikram Dulerai Sanghvi,
Aged 71 years, Flat Nos.A-15 & A-16
13. Ashok Santu Bhavnani,
Aged 58 years, Flat Nos.B-7 & B-8,
14. Jayesh Natvarlal Barot,
Aged 59 years, Flat Nos.B-13 & B-14

15. Ajit Nagindas Sheth,
Aged 64 years, Flat No.B-16
Nos.1 to 15, members of the Linking
Road Housing Society Limited,
having its registered address at
Shri Niketan, 61-B, North Avenue,
Santacruz (West), Mumbai 400 054
16. The Linking Road Housing Society
Limited, through it's Administrator
having its registered address at
Shri Niketan, 61-B, North Avenue,
Santacruz (West), Mumbai 400 054

... **Petitioners****V/s.**

1. Deleted
2. Deleted
3. Dr. Harshad N. Pandya (deceased)
through heirs & legal representatives
- 3(a) Sharda Harshad Pandya
- 3(b) Rajendra Harshad Pandya
- 3(c) Dr. Pankaj Harshad Pandya
having their address at B-4,
Shri Niketan, 61-B, North Avenue,
Santacruz (West), Mumbai 400 054
4. Gautam Vardhan,
Dy. Registrar, Coop. Societies,
HW Ward, Mumbai.
5. The Administrator of Linking Road
Housing Society Limited, appointed
by Dr. Registrar, Coop. Societies,
HW Ward, Mumbai, office at The
Linking Coop. Hsg. Soc. Limited,
Shri Niketan, 61-B, North Avenue,
Santacruz (West), Mumbai 400 054
6. The State of Maharashtra,
Mumbai High Court, O.S. Side,
Mumbai, Maharashtra

... **Respondents**

Mr. Anil Anturkar, Senior Advocate with Mr. Yatin Malavankar for the petitioners.

Mr. Shailesh Kanetkar with Ms. Meena Shah i/by Pandya & Co., for original respondent Nos.3a to 3c.

Ms. Kavita N. Solunke, Additional G.P. with Mr. S.L. Babar, AGP for State.

CORAM : AMIT BORKAR, J.

RESERVED ON : OCTOBER 9, 2025

DATED : OCTOBER 14, 2025

JUDGMENT:

1. By this writ petition under Article 227 of the Constitution of India, the petitioners challenge the Judgment and Order dated 30 December 2020 passed by the Cooperative Appellate Court in Appeal No.79 of 2018. The Appellate Court confirmed the Judgment and Award passed in Dispute Nos.410 and 411 of 2014, allowing the claim of the respondent-disputant.

2. The relevant facts leading to the filing of this writ petition are as follows. The original disputant, late Dr. Harshad Pandya, was a founder member of the society and owner of Flat No.B-4. After his death during the pendency of the dispute, his legal heirs were brought on record as disputants. The society owns two buildings, "A" Wing and "B" Wing, comprising 16 and 20 flats respectively, having 30 members in all.

3. The case of the disputants is that in 1977, the Municipal Corporation of Greater Mumbai acquired a portion of the society's land. In lieu of the setback area used, the Corporation granted

additional FSI of 1500 sq. ft. to the society. The society held meetings to consider the use of this FSI. In the Annual General Meeting held on 10 June 1988, the society resolved to utilize the FSI for constructing a bungalow within the society's premises. By notice dated 15 March 1988, the office bearers invited tenders with an earnest deposit of Rs.5,000 to be submitted by 1 April 1988. Both members and outsiders submitted tenders. The managing committee opened the tenders on 24 April 1988. The deceased disputant was the highest bidder and his earnest deposit was retained. Subsequently, in the meeting held on 8 January 1989, it was resolved that construction of a private bungalow would reduce open space and limit FSI utilization. Hence, the managing committee decided to allow the disputant to construct additional premises atop Building "B". Later, on advice from the Architect that such extension would be costly, it was agreed that the disputant would pay Rs.7,00,000 towards allotment of the additional FSI of 1500 sq. ft.

4. The society, by letter dated 5 November 1989, confirmed the allotment of the FSI. The general body meeting held on 12 November 1989 authorized the managing committee to finalize the terms and execute necessary documents. The managing committee formed an FSI sub-committee for that purpose. The sub-committee met on 12 November 1989 and approved a draft Memorandum of Understanding (MoU) with the disputant. The MoU was executed on 14 November 1989 and the disputant deposited Rs.51,000, for which receipt was issued by the society.

5. It is the case of the disputants that, due to a change in government policy, the right to use additional FSI lapsed. The managing committee, in its meeting on 8 September 1991, resolved to permit the disputant to purchase and use Transferable Development Rights (TDR) at his own cost. By letter dated 10 September 1991, the society allowed him to utilize up to 2700 sq. ft. of TDR, with an option to use more by paying Rs.100 per sq. ft. A supplementary MoU was executed on 21 October 1992 to record this arrangement.

6. The disputants allege that despite these decisions and MoUs, the office bearers avoided implementation. On 9 May 1997, the managing committee again formed an FSI sub-committee to finalize development issues, resulting in a second supplementary MoU dated 10 May 1997. The society sought legal opinion from Senior Advocate Dr. D.N. Sonsale, who on 10 January 1998 confirmed that the MoUs were binding on the society. Even then, the society failed to act. The disputant, by letter dated 10 January 2000, informed his intention to proceed with the construction. The society, however, resolved on 13 January 2000 to restrain him. The disputant claimed that this resolution was beyond the committee's authority and filed a dispute before the Cooperative Court.

7. The society, in its written statement, denied the claim. It contended that the managing committee had authority from the general body to determine terms for FSI utilization but could not delegate its powers to a sub-committee. It alleged that the three MoUs were unauthorized and illegal. It also contended that the FSI had lapsed in 1985 and that the office bearers, in collusion with

the disputant, executed invalid MoUs without approval of the general body.

8. It was further contended that the FSI sub-committee met on 12 November 1989 immediately after the AGM without proper notice to new managing committee members and, in collusion with the disputant, executed the MoUs. The MoUs were alleged to have been drafted by the disputant's solicitors. The society denied that any resolution had fixed the FSI cost at Rs.7 lakh. The MoUs, therefore, were claimed to be non-binding and void.

9. In Dispute No.204 of 2006 (renumbered as 411 of 2014), the disputant sought a declaration that resolutions passed in the Special General Meeting dated 2 October 2003 cancelling the MoUs and the resolution of AGM dated 1 October 1988 were illegal, arbitrary, and contrary to this Court's order dated 13 January 2003 in Appeal No.333 of 2002.

10. The disputant stated that during the pendency of the original dispute, he sought interim protection to prevent the society from interfering with the implementation of resolutions and MoUs. The Trial Court granted injunction restraining obstruction. The society filed an appeal before this Court. In Appeal No.333 of 2002, this Court on 13 January 2003 directed both sides to maintain status quo. Despite this, the society passed a resolution on 2 October 2003 cancelling the MoUs.

11. The disputant contended that this cancellation was intended to nullify the Court's order. He alleged that the MoUs were cancelled without notice or discussion, though they were validly

executed and implemented pursuant to earlier resolutions.

12. The society, in its reply, contended that the disputant's wife, who was a managing committee member, influenced the committee in her husband's favour. It maintained that the managing committee had no authority to delegate powers to the FSI sub-committee and that the MoUs were void.

13. The Cooperative Court framed issues, recorded evidence, and after appreciation of the material, allowed both disputes in favour of the disputant.

14. Learned Senior Advocate Mr. Anturkar, for the petitioners, submitted that the dispute was not maintainable under Section 91 of the Maharashtra Cooperative Societies Act, as the transaction was not in the disputant's capacity as a member of the society. He pointed out that the society had invited tenders from the general public, not just members, as pleaded by the disputant himself. Therefore, the transaction did not arise out of membership rights.

15. Relying on *Deccan Merchants Cooperative Bank Ltd. v. Dalichand Jugraj Jain* (1968 SCC OnLine SC 10), *Belganda Sahakari Sakhar Karkhana Ltd. v. Keshav Rajaram Patil* (1994 Mh.L.J. 1756), and *Cargill India Pvt. Ltd. v. Shri Adinath Sahakari Sakhar Karkhana Ltd.* (2013 (5) Mh.L.J. 570), he argued that construction over FSI cannot be considered a dispute "touching the business of the society."

16. He further submitted that the Courts below erred in law by holding that the sub-committee had validly executed the MoUs, though the managing committee had no authority to delegate its

powers. Hence, all MoUs were void and the concurrent findings deserved to be set aside.

17. In reply, learned Advocate Mr. Kanetkar for the respondents contended that the question whether the transaction touched the business of the society was a mixed question of law and fact and could not be raised for the first time in writ jurisdiction. He submitted that the society's bye-laws permitted engagement in real estate activity and development of its property for the benefit of members, which fell within the ambit of its business.

18. Placing reliance on *Suprabhat CHS Ltd. v. Span Builders (2002 (3) Mh.L.J. 837)*, he argued that the object of the society clearly covered construction and development activities. Therefore, the dispute related to business of the society within the meaning of Section 91.

19. He submitted that clause 1 of the tender conditions provided that tenders would be accepted only from members of the society. Hence, the transaction was between the society and its member. The disputant was the highest bidder and had paid consideration. The MoUs were executed in good faith and were binding on the society. The later decision of the society in 2003 cancelling them was arbitrary and illegal. Therefore, both Courts rightly upheld the claim of the disputant.

Capacity as a member:

20. The real issue before the Court is to identify the true nature of the transaction between the disputant and the society. The question is not how the parties have described it, but whether the

right claimed by the disputant arises from his status as a member of the cooperative housing society.

21. In simple terms, if the right or benefit that the disputant claims is one which he could enjoy only because he is a member of the society, then the dispute clearly arises out of his membership. But if the transaction is one that any outsider could have entered into, without being a member, then it cannot be said to arise in the capacity of a member.

22. This test is not based on how the transaction appears on the surface, but on its substance and legal foundation. Courts do not go by the outward form of the transaction or by the labels given by the parties. They look at the source of the right that gives rise to the dispute. The focus is on whether the claim made by the disputant is rooted in the rules, bye-laws, or resolutions of the society which govern the rights and obligations of its members.

23. In a cooperative society, membership creates a special relationship governed by statute and bye-laws. Every action taken under those bye-laws, whether it concerns use of property, allocation of resources, or participation in development, is an act performed in the capacity of a member. On the other hand, a purely commercial dealing, which the society could have entered into with any member of the public, does not have this character.

24. Applying this principle, the Court has to see whether the transaction for allotment of FSI was an internal matter arising under the society's bye-laws, or whether it was an open commercial contract offered to the public. If it arose from the

resolutions of the general body and tender conditions that restricted eligibility to members, then the right claimed by the disputant is clearly a right attached to his membership. The fact that the tender might have been advertised publicly would not change its nature if the underlying conditions limited participation to members.

25. The test, therefore, is not who saw the advertisement, but who was legally entitled to bid. If only members were entitled to bid, the transaction flows from membership. The Court must look at the true source of the right, not the outer form of the tender or the manner in which it was publicized.

26. In conclusion, when the right claimed by the disputant arises directly from the society's bye-laws, resolutions, and conditions applicable only to members, the dispute must be treated as one arising in his capacity as a member. The cause of action, therefore, lies within the scope of Section 91 of the Maharashtra Cooperative Societies Act.

27. To decide whether the transaction between the society and the disputant took place in his capacity as a member, the Court must look at several key factors. Each factor helps to determine whether the dispute arises from the internal affairs of the society or from an independent commercial dealing.

(a) The society's bye-laws and resolutions:

The first and most important factor is the bye-laws and resolutions passed by the general body. These documents show the legal authority under which the managing

committee functions. If the bye-laws and AGM resolutions empower the managing committee to use the society's property, including FSI, and to allot or transfer such rights to its members, then any transaction made under that authority would clearly be one arising from membership. In the present case, the AGM held on 12 November 1989 authorised the managing committee to finalise terms and conditions regarding use of FSI. This shows that the decision was part of the society's internal administration, permitted by its bye-laws and supported by its members.

(b) **The tender terms:**

Next, the Court must examine the tender conditions themselves. If the tender limited eligibility to those holding share certificates in the society, it means the invitation was meant only for members. Such a condition restricts participation and keeps the transaction within the four corners of the society's internal functioning. Clause 1 of the tender, in this case, specifically stated that only members of the society could submit tenders. This condition clearly establishes that the offer was not open to outsiders and that the transaction was meant to benefit the members.

(c) **The conduct of the society:**

The Court must also look at how the society actually conducted itself during and after the tender process. The minutes of meetings show that the society invited bids, opened tenders in the presence of the managing committee,

found the disputant to be the highest bidder, accepted his earnest deposit of Rs.5,000, and later received further amounts. The society then issued receipts and executed MoUs with the disputant. These acts are consistent with the conduct of a society dealing with its member and implementing a collective decision. Such actions strengthen the conclusion that the transaction was within the society's internal framework and not with an outsider.

(d) **Consideration and reliance:**

Another important aspect is whether the disputant paid consideration and acted upon the allotment. When a member pays money in response to the society's decision and proceeds on that understanding, it shows reliance on his membership rights. The society, having accepted payment and issued receipts, is estopped from denying the member's status or questioning the transaction later. This chain of conduct shows mutual recognition of rights and obligations arising from membership.

(e) **Municipal or external communications:**

Sometimes, the municipal authorities or government policies may affect how the society can use its FSI. The question then is whether such communications take away the society's right altogether, or merely alter the method of use. In this case, changes in government policy only required the society to use TDR instead of direct FSI. The society, by subsequent resolutions, allowed the disputant to purchase and use TDR

at his cost. These decisions were still made within the society's framework and therefore do not affect the nature of the transaction as one arising from membership.

(f) **Evidence of publicity or newspaper advertisement:**

The last factor is the evidence of any public advertisement. Even if the tender notice appeared in newspapers, it does not automatically make the process open to outsiders. Publication might have been done merely to ensure transparency or to inform members widely. What matters is the eligibility clause in the tender itself. Since Clause 1 restricted participation to members, the public advertisement loses its significance. The decisive test remains the terms of eligibility, not the mode of announcement.

28. While deciding whether the transaction between the society and the disputant took place in his capacity as a member, the Court has to carefully read both the pleadings and the documentary record.

29. The society argues that the transaction was not with the disputant as a member but as an outsider because, in paragraph 3 of the dispute, the disputant himself stated that the society had invited tenders from outsiders also, and that the notice was published in newspapers such as "Times of India" and "Bombay Samachar." On the face of it, this pleading gives an impression that the society had thrown open the tender process to the general public. If this were true, then the transaction would lose its character as a member-to-society transaction and would fall

outside the scope of Section 91 of the Maharashtra Cooperative Societies Act.

30. However, the pleadings cannot be read in isolation. They must be tested against the official records, resolutions, and tender documents issued by the society. Clause No. 1 of the tender conditions, which forms part of the record, clearly states that only members of the society were eligible to submit tenders. It specifically restricts participation to those persons in whose name share certificates had been issued by the society. This clause reflects the true intention of the society, to allot additional FSI for the benefit of its members, not for outsiders.

31. The alleged newspaper publication, even if proved, by itself does not make the tender process public. It could only serve as a means to inform members and ensure transparency. What decides eligibility is not the mode of publication but the conditions contained in the tender itself. The governing condition is Clause 1, which limits participation to members.

32. If the society had indeed intended to invite offers from outsiders, it would have specifically amended its bye-laws or passed a resolution authorizing such an open tender. There is no evidence of any such resolution. On the contrary, the minutes of the managing committee meetings and subsequent MoUs show that the society consistently treated the transaction as one between the society and its member. The receipt of earnest money, execution of MoUs, and later resolutions permitting use of TDR, all were done in recognition of the disputant's status as a member.

33. Therefore, the mere reference in paragraph 3 of the dispute to newspaper publication or outsiders cannot outweigh the clear and binding terms of the tender and the resolutions passed by the society. What governs the legal nature of the transaction is the tender condition limiting eligibility to members, not the language of one sentence in the pleading.

34. On a proper appreciation of the entire record, it becomes evident that the transaction arose in the disputant's capacity as a member. The tender process, though possibly publicized through newspapers, was substantively restricted to members. The acceptance of the disputant's offer and execution of MoUs in his favour were acts done under the authority of the society's bye-laws and resolutions. Thus, the dispute squarely arises out of rights and obligations flowing from membership and is covered under Section 91 of the Maharashtra Cooperative Societies Act.

35. Considering all these factors together, the overall picture becomes clear. The society acted under its bye-laws and resolutions, restricted bidding to members, accepted payment from a member, and executed agreements in his favour. The transaction, therefore, arose entirely from rights and obligations connected with membership. It was not an independent commercial dealing with an outsider. Hence, the dispute is one "touching the business of the society" within the meaning of Section 91 of the Maharashtra Cooperative Societies Act.

Touching the business of the society:

36. The expression "touching the business of the society" must

be understood in the context of what the particular society is established to do. Every cooperative society is created for a specific purpose. Its “business” includes all lawful activities necessary to achieve that purpose. Therefore, to decide whether a dispute falls within the scope of Section 91 of the Maharashtra Cooperative Societies Act, the Court must first look at the society’s objects and bye-laws.

37. In this case, the bye-laws of the society are clear. They permit the society to undertake real estate activities such as construction, development, sale, purchase, and maintenance of property. They also authorize the society to provide amenities and services for the benefit of its members. These objects show that dealing with its land and building activities, including utilization of FSI or TDR, forms an essential part of the society’s business.

38. The decision to use the additional FSI granted by the Municipal Corporation was taken in furtherance of these objects. It was neither an independent commercial venture nor a transaction with an outsider. It was a step taken by the society to develop its own property for the benefit of its members. The managing committee, acting on authority of the general body, framed tender terms and invited offers to implement this decision.

39. Clause 1 of the tender conditions plays a decisive role. It specifically restricted eligibility to the members of the society who held share certificates. This shows that the invitation to utilize the FSI was not thrown open to the general public. It was confined within the membership of the society. Once the tender is restricted

to members, the transaction becomes part of the society's internal affairs. It arises from membership rights and obligations and directly relates to the society's business as defined in its bye-laws.

40. When a member participates in such a process, pays money, and acts upon the society's resolutions, the resulting rights and duties are governed by the Cooperative Societies Act and the society's bye-laws. Therefore, any dispute arising from such a transaction necessarily "touches the business of the society."

41. The petitioners have relied on judgments where the courts held that certain disputes did not fall within Section 91. Those decisions dealt with societies engaged in activities not related to real estate development, or where the transactions were purely commercial dealings with outsiders. The facts of those cases are materially different. In the present case, the activity in question, utilization of additional FSI, was undertaken strictly under the authority of the society's bye-laws and for the benefit of its members.

42. The law under Section 91 is settled. It excludes disputes which have no relation to the society's business or membership. But when the dispute arises out of decisions, resolutions, and contracts made within the framework of the society's constitution, it squarely falls within its scope.

43. In this case, the society's decision to utilize FSI, the framing of tenders restricted to members, the acceptance of bids, the payment made by the disputant, and the execution of MoUs, all were acts done in furtherance of the society's objects. The entire

transaction remained within the society's fold and concerned its member. Hence, this dispute undoubtedly arises out of and touches the business of the society within the meaning of Section 91 of the Maharashtra Cooperative Societies Act.

Validity of MoUs and the acts of the managing committee:

44. The validity of the three MoUs and the actions of the managing committee must be judged in the light of the resolutions passed by the general body and the powers conferred upon the managing committee under the bye-laws. The record clearly shows that in the general body meeting held on 12 November 1989, the members of the society expressly authorised the managing committee to finalise the terms and conditions and to take all necessary steps for allotment and utilisation of the additional FSI. This resolution was passed by the supreme body of the society, the general body, and it gave a clear and specific mandate to the managing committee to implement the decision. Hence, the managing committee was acting strictly within the authority given to it by the members.

45. After receiving this authorisation, the managing committee constituted a separate FSI sub-committee to handle the technical and procedural aspects of the work. This was a practical and administrative step. Large cooperative societies often create sub-committees to deal with specialised matters. The purpose is to distribute work efficiently, not to transfer power unlawfully. The law recognises such internal arrangements unless the bye-laws specifically prohibit them. In this case, there is no clause in the

bye-laws forbidding the managing committee from forming sub-committees. Therefore, creation of the FSI sub-committee cannot be termed as illegal or beyond authority.

46. The sub-committee acted on the authority given to it, examined the details, prepared the draft, and approved the Memorandum of Understanding (MoU) with the disputant. The MoU was executed on 14 November 1989. The disputant made payment of Rs.51,000, and the society issued an official receipt acknowledging the same. The timing of these acts is important. The execution of the MoU and the acceptance of money happened immediately after the resolutions were passed, showing that the transaction was genuine and consistent with the society's decision. These are not acts of private individuals but formal acts of the society carried out through its authorised office bearers.

47. The record further shows that when a dispute arose later about the implementation of the MoUs, the society itself sought legal opinion from Senior Advocate Dr. D.N. Sonsale. His written opinion, dated 10 January 1998, clearly stated that the MoUs were valid and binding on the society. While such a legal opinion is not by itself conclusive proof, it supports the conclusion that even at that time, the society and its advisors treated the MoUs as lawful and effective documents.

48. When these facts are read together, the general body's authorisation, the managing committee's decision, the formation of the FSI sub-committee, the execution of the MoUs, and the receipt of consideration, they all point to one consistent conclusion. The

society consciously took steps to give effect to its resolution for utilisation of the additional FSI and acted upon it for several years. At no point during this period did the society treat the MoUs as void or unauthorised. Only much later, when disputes arose, did it attempt to challenge them.

49. Both the Cooperative Court and the Appellate Court examined the evidence on this point in detail. They found that the actions of the society were lawful and within its powers, and that the MoUs were executed in pursuance of valid authority. These concurrent findings are based on a correct appreciation of evidence and proper application of legal principles. Unless those findings are shown to be perverse or contrary to law, they deserve to be upheld.

50. Accordingly, the Court finds that the execution of the MoUs by the FSI sub-committee, under the authority of the managing committee and pursuant to the general body's resolution, was valid. The payment made by the disputant and its acceptance by the society are clear indicators that the transaction was recognised and implemented by the society itself. Therefore, the MoUs cannot be termed as nullities or unauthorised documents. They are binding on the society and must be given effect to in accordance with law.

Lapse of FSI and communications from Municipal Corporation:

51. The society has taken a stand that the additional FSI, which was initially granted by the Municipal Corporation, had lapsed, and it relies upon certain communications received from the

municipal authorities to support that claim. However, this argument does not hold when the overall record is examined. The documents and resolutions passed by the society after those communications clearly show that the society did not treat the FSI as lost. Instead, the society made alternate arrangements and continued to act upon its earlier decisions.

52. The managing committee meeting held on 8 September 1991 is particularly important. In that meeting, the committee resolved that since the government policy had changed, the disputant could be permitted to obtain and use Transferable Development Rights (TDR) at his own cost, in place of the original FSI. The resolution specifically allowed the disputant to utilise up to 2700 square feet of TDR, with an option to use additional area by paying the prescribed amount to the society. This decision was not an isolated act. It was followed by execution of a supplementary MoU on 21 October 1992, and later another MoU dated 10 May 1997.

53. These successive resolutions and agreements show that both the society and the disputant continued to recognise the earlier arrangement as valid. They also demonstrate that the parties mutually adjusted to the change in municipal policy by substituting FSI with TDR. The transaction thus evolved lawfully in accordance with the new regulatory framework. The society's conduct in passing resolutions, approving MoUs, and accepting payments leaves no doubt that it intended to honour its commitment and to facilitate the disputant in availing the development rights.

54. It is also a well-settled principle that a mere communication or note from a municipal authority does not by itself extinguish rights or obligations created under valid resolutions of a cooperative society. Unless the municipal communication expressly cancels or prohibits the use of the FSI and such decision is adopted by the society, the earlier resolutions and agreements remain operative. In this case, no such cancellation or prohibition is shown on record. On the contrary, the society's subsequent resolutions clearly reaffirmed its commitment to allot the development rights to the disputant, even if the form of those rights changed from FSI to TDR.

55. Therefore, the municipal note relied upon by the society cannot override its own resolutions or the binding agreements entered into with the disputant. The decisive facts are the later acts, the resolutions of 1991, 1992, and 1997, the execution of supplementary MoUs, and the acceptance of consideration. These acts clearly establish that the society accepted the new development mechanism under TDR and continued to treat the disputant as entitled to proceed with construction under the modified terms.

56. The evidence, taken as a whole, supports the conclusion that the society itself recognised the continuation of the arrangement and that the disputant relied upon these consistent approvals while making payments and preparing for development. The plea that the FSI had lapsed is, therefore, an afterthought and contrary to the society's own conduct. The transaction, as modified through the TDR mechanism, remained valid and binding upon the society.

Procedural objections and alleged collusion:

57. The society has raised several procedural objections to challenge the validity of the resolutions and the MoUs. It alleges that the meetings held on 12 November 1989 were conducted in haste, that proper notice was not given to the newly elected managing committee members, and that the disputant acted in collusion with certain office bearers. These allegations, if true, would indeed be serious. However, such claims cannot rest merely on suspicion or general statements. The law is clear that the party making such allegations must prove them with specific and credible evidence. The burden of proof lies squarely on the society.

58. When the record is carefully examined, it becomes evident that the society has not produced any reliable evidence to establish that the meetings were irregular or conducted behind the back of its members. The minutes of the meetings and the resolutions passed on those dates are properly recorded and signed. These documents were maintained contemporaneously and are consistent with the conduct of the society over the following years. The receipts issued for payments received from the disputant and the subsequent resolutions passed by the managing committee and general body all support the genuineness of those meetings and decisions.

59. The allegation that the disputant's solicitors drafted the MoUs also carries no legal significance. In commercial and cooperative dealings, it is common for parties to take assistance from their legal advisers for preparing agreements. The mere fact

that the drafts were prepared by the disputant's solicitors does not amount to collusion or illegality. To prove collusion, it must be shown that the office bearers acted dishonestly, for personal gain, and contrary to the interest of the society. No such evidence has been brought on record.

60. It is also important to note that the general body, the highest decision-making authority of the society, never passed any resolution declaring that its earlier decisions were obtained by fraud or misrepresentation. On the contrary, the subsequent resolutions and conduct of the managing committee show that the society continued to treat the MoUs as valid and binding for several years. This consistent conduct weakens the allegation of fraud or collusion.

61. The Cooperative Court examined these very objections and came to the clear conclusion that the society failed to prove any procedural irregularity, fraud, or collusion. The Appellate Court also independently reviewed the record and agreed with these findings. Both courts have given concurrent findings of fact after considering all relevant documents and evidence.

62. Under Article 227 of the Constitution, this Court exercises limited supervisory jurisdiction. It does not sit as a court of appeal to re-examine evidence or substitute its own findings merely because another view is possible. Unless the findings are shown to be perverse, contrary to law, or based on no evidence, interference is not warranted.

63. In this case, no such perversity or illegality is demonstrated. The record supports the findings of the lower courts that the meetings were duly convened, resolutions were validly passed, and there was no collusion or fraud. Therefore, these procedural objections and allegations cannot stand. The decisions taken by the society in its meetings of November 1989 and thereafter must be treated as lawful and validly implemented acts of the society.

Status-quo order and cancellation of MoUs:

64. This Court, while deciding Appeal No. 333 of 2002, had passed an order on 13 January 2003 directing both parties to maintain status quo. Such an order has a clear and definite legal meaning. It requires that both sides must maintain the situation exactly as it existed on that date. No party is permitted to alter, modify, or disturb the existing state of affairs until the Court decides otherwise. The purpose of such an order is to preserve peace between the parties and to prevent either side from gaining an undue advantage by unilateral action while the dispute is still pending before the Court.

65. Orders of status quo are binding and must be followed with strict discipline. Once such an order is in force, the parties are duty-bound to respect it. They cannot try to bypass it by indirect means such as passing resolutions or taking fresh decisions on the very subject which is protected by the Court's direction.

66. In the present case, despite the clear status quo order, the society convened a meeting and passed a resolution on 2 October 2003 cancelling the MoUs executed earlier with the disputant. This

action was taken nearly nine months after the Court's order and dealt directly with the very matter that was under judicial consideration. Such conduct amounts to willful defiance of a binding judicial direction. It is a settled principle that once a Court has restrained parties from altering the situation, any act done in contravention of that order is void in the eyes of law.

67. The resolution dated 2 October 2003, therefore, cannot have any legal force or effect. It was passed in direct violation of the Court's order and was intended to defeat the purpose of maintaining status quo. It attempted to nullify the rights of the disputant under the MoUs despite the ongoing judicial protection. Such an attempt is contrary to the rule of law and undermines the authority of the Court.

68. The Cooperative Court rightly held that the resolution of cancellation was invalid and ineffective. It correctly concluded that any action taken during the operation of the status quo order, which seeks to change or cancel existing rights, is void and unenforceable. The Appellate Court also confirmed this view.

69. Therefore, the cancellation of the MoUs by the society on 2 October 2003 cannot form a lawful basis to deny the disputant's rights arising under the validly executed MoUs. The rights created under those MoUs continued to subsist and remained protected by the status quo order of this Court. Any attempt by the society to unilaterally cancel them during the pendency of judicial proceedings was an act without jurisdiction and contrary to law.

70. The record shows that the disputant acted fully and honestly on the basis of the resolutions and decisions taken by the society itself. He did not act on his own. He paid the amounts demanded by the society, obtained valid receipts, and entered into MoUs that were formally approved by the managing committee and the FSI sub-committee. Thereafter, he made preparations and took steps to carry out construction in accordance with the rights given to him under those MoUs. Every act of the disputant was based on the written approvals, resolutions, and assurances given by the society.

71. When a member acts in good faith on the strength of the society's formal decisions and spends money or changes his position relying on them, the principles of equity and estoppel come into play. These are long-standing principles of justice which prevent a party from going back on its word after the other side has relied upon it. In simple terms, once the society gave its consent, received consideration, and allowed the disputant to proceed, it cannot later turn around and say that those decisions were invalid. Doing so would cause unfair loss to the disputant and amount to unjust enrichment by the society.

72. The doctrine of promissory estoppel operates precisely in such situations. It says that when one party makes a clear representation, and the other acts upon it to his detriment, the first party is bound by its representation and cannot withdraw it to the prejudice of the other. Here, the society, through its general body and managing committee, passed resolutions, executed MoUs, and accepted payments. The disputant relied on those actions in good faith. He had every reason to believe that the society's approvals

were genuine and binding.

73. The record shows that the disputant made substantial payments and also incurred expenses in preparation for construction. Once these actions were taken based on the society's explicit authorisation, it is not open to the society to later disown those acts. Equity forbids such inconsistent conduct. The law does not allow a person or body to both benefit from a transaction and at the same time deny its validity when it becomes inconvenient.

74. Furthermore, cooperative societies function on the principle of mutual trust among members. Their resolutions, when duly passed, represent collective decisions. A member who acts upon such collective decisions should not be made to suffer later because of internal differences or a change of opinion among office bearers. The society, being a legal entity, must take responsibility for its past decisions and the consequences flowing from them.

75. In this case, the disputant's reliance was not only reasonable but also fully justified. He paid money, complied with the society's directions, and waited for years for the society to perform its part. The society's later attempt to cancel the MoUs, after enjoying the benefit of his payments, is contrary to fairness and good conscience.

76. Therefore, applying the principles of equity and estoppel, the society is bound by its earlier resolutions and MoUs. It cannot now deny their validity or refuse to perform its obligations. The disputant, having acted in reliance on those representations and having altered his position to his detriment, is entitled to

protection. The agreements, therefore, deserve to be enforced in law as well as in equity.

77. The petitioners have relied on several judicial decisions to argue that the present dispute does not fall within the meaning of “business of the society” under Section 91 of the Maharashtra Cooperative Societies Act. They have cited the judgments in *Deccan Merchants Cooperative Bank Ltd.*, *Belganda Sahakari Sakhar Karkhana Ltd.*, and *Cargill India Pvt. Ltd.*

78. The principle laid down in these judgments is that every transaction that merely involves land, building, or construction does not automatically become part of the “business” of a cooperative society. The Courts in those cases observed that whether a particular activity forms part of the society’s business must be determined with reference to the society’s objects, its bye-laws, and the nature of its functions. The scope of “business” is not to be stretched beyond what the society is actually authorised to do.

79. However, these precedents cannot be read in isolation or applied mechanically. Each of those cases was decided on its own facts and the particular bye-laws of the society concerned. For example, in *Deccan Merchants Cooperative Bank Ltd.*, the dispute related to a commercial transaction that had no connection with the cooperative activities of the bank and was purely a matter of private contract. The Supreme Court held that such a dispute could not be said to touch the business of the society because it was outside its ordinary functioning as a cooperative bank.

80. Similarly, in *Belganda Sahakari Sakhar Karkhana Ltd.*, the issue involved an industrial cooperative sugar factory, and the dispute was found to be beyond its cooperative purpose and unrelated to its members' rights or participation. The Court held that disputes not arising out of the business authorised by the bye-laws cannot be brought within the jurisdiction of the Cooperative Court merely because one of the parties happens to be a member.

81. In *Cargill India Pvt. Ltd.*, the society had entered into a purely commercial contract with a private company that was neither a member of the society nor acting under its cooperative objects. The Court, therefore, held that such a transaction was a business dealing of a commercial nature, not a cooperative function governed by Section 91.

82. The facts of the present case are materially different. The society here is a cooperative housing society whose bye-laws specifically authorise real estate activities, including construction, development, and maintenance of buildings for the benefit of its members. The additional FSI and later TDR were part of the society's property and were dealt with through its own resolutions and tender process restricted to members. The disputant, being a member, acted under these internal decisions.

83. Therefore, unlike in the cited cases, this transaction is not an external commercial dealing with a stranger. It arises directly out of the society's objects and internal resolutions. The principle laid down in *Deccan Merchants* and similar cases, that every transaction relating to land or construction is not automatically

part of the business, remains correct, but it does not apply to this case because the activity here is squarely within the society's authorised functions.

84. In short, these authorities reinforce the correct legal test, whether the dispute arises from rights and obligations flowing from the membership and the objects of the society. When that test is applied to the present facts, the result is clear, the transaction was undertaken in the course of the society's own business for the benefit of its members, and therefore, the dispute properly falls within Section 91.

85. Hence the writ petition fails and is dismissed.

(i) The Judgment and Order dated 30.12.2020 of the Cooperative Appellate Court in Appeal No.79 of 2018 stands confirmed.

ii) The awards and directions in Dispute Nos.410 and 411 of 2014 remain binding on the society.

(iii) The society shall implement the awards and take all necessary steps to give effect to the MoUs within a period of three months.

(iv) The parties shall bear their own costs.

86. In view of this, all pending interlocutory applications stand disposed of.

(AMIT BORKAR, J.)