



AGK

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

WRIT PETITION NO.13736 OF 2025

ATUL
GANESH
KULKARNI

Digitally signed by
ATUL GANESH
KULKARNI
Date: 2026.02.12
18:43:27 +0530

1. **Abhay Manohar Paranjape,**
Age 64 years, Occupation: Business,
R/at: C-14, Shivnagari Society,
Survey No.70, Kothrud, Pune 411 038
 2. **Shailendra Suresh Bagal,**
Age 49 years, Occupation: Service,
R/at: K-8, Shivnagari Society,
Survey No.70, Kothrud, Pune 411 038
 3. **Narendra Yashwant Phatak,**
Age 61 years, Occupation: Retired,
R/at: D-7-8, Shivnagari Society,
Survey No.70, Kothrud, Pune 411 038
 4. **Hrushikesh Sunil Deshmukh,**
Age 47 years, Occupation: Service,
R/at: M-6, Shivnagari Society,
Survey No.70, Kothrud, Pune 411 038
 5. **Krishna Champatrao Deshpande,**
Age 75 years, Occupation: Retired,
R/at: A-4, Shivnagari Society,
Survey No.70, Kothrud, Pune 411 038
- ... Petitioners**

V/s.

1. **Shivnagari Cooperative Housing Society
Limited,** O/at Survey No.70, Kothrud,
Pune 411 038.
2. **The State of Maharashtra,**
through Ministry of Cooperation,
Mantralaya, Mumbai – 400 032

3. Divisional Joint Registrar, Cooperative

Societies, Pune Division, Pune,
O/at: Ground Floor, Sakhar Sankul,
Shivajinagar, Pune 411 005

4. Deputy Registrar, Cooperative Societies,

Pune, O/at: Krishna Plaza, Office
582/D, Gultekdi, Market Yard,
Pune 411 001

... Respondents

Mr. Adwait Bhonde with Mr. Atharva Bhosale for the petitioners.

Mr. Shrivallabh S. Panchpor with Ms. Mahima Sharma for respondent No.1.

Mr. A.C. Bhadang, AGP for respondent Nos.2 to 4-State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 11, 2026

JUDGMENT:

1. The petitioners have instituted the present writ petition assailing the judgment and orders passed by the Revisional Authority, whereby the revisions preferred by the petitioners came to be dismissed and the action of respondent No.1 society in expelling the petitioners from its membership was confirmed. The expulsion has been upheld on the ground that the petitioners had allegedly indulged in acts prejudicial and detrimental to the normal and smooth functioning of the society.

2. The factual matrix giving rise to the present proceedings is as follows. Respondent No.1 is a co operative housing society

registered under the provisions of the Maharashtra Cooperative Societies Act, 1960. The petitioners are members of the said society and owners of residential flats therein. Between the years 2017 and 2021, the petitioners had actively questioned the functioning of the office bearers of the society and had raised various grievances before statutory and administrative authorities, including the authorities under the Cooperative Department, the office of the Sub Registrar, appellate forums, and the Pune Municipal Corporation.

3. On 24 May 2021, respondent No.1 claims to have received a complaint purportedly signed by 26 members of the society seeking expulsion of the petitioners from membership. The allegation in the said complaint was that the petitioners were making false and defamatory complaints against the office bearers, thereby damaging the reputation of the society and creating obstacles in its day to day functioning. Thereafter, on 2 September 2023, the office bearers of respondent No.1 issued a show cause notice to the petitioners under Section 35 of the Maharashtra Cooperative Societies Act, alleging that the conduct of the petitioners had adversely affected the reputation and working of the society. By the said notice, the petitioners were informed that a Special General Meeting would be convened on 22 October 2023 to consider a resolution for their removal from membership.

4. The petitioners, on 12 September 2023, submitted an interim reply to the show cause notice and called upon the society to furnish certain documents in support of the allegations. On 22 October 2023, a Special General Meeting of the society was

convened. The petitioners were afforded an opportunity to present their explanation to the charges levelled against them. Upon consideration of the matter, a resolution for expulsion of the petitioners from the membership of the society was passed by a three fourth majority of the members present and voting.

5. On 4 December 2023, respondent No.1 submitted an application before the Deputy Registrar seeking approval of the resolution dated 22 October 2023, as required under the Act. The petitioners filed their reply to the said proceedings on 15 February 2024. By order dated 27 June 2024, the Deputy Registrar granted approval to the resolution and confirmed the removal of the petitioners from membership of the society.

6. Being aggrieved by the order of the Deputy Registrar, the petitioners preferred an appeal before the Divisional Joint Registrar, which came to be dismissed by order dated 7 November 2024. The petitioners thereafter invoked the revisional jurisdiction, which too was dismissed by order dated 20 August 2025. It is in these circumstances that the present writ petition has been filed challenging the concurrent orders passed by the authorities under the Act.

7. Mr. Adwait Bhonde learned Advocate appearing for the petitioners submitted that the show cause notice issued to the petitioners enumerated nine distinct and specific charges. These charges pertained to complaints regarding the construction of an office room of Shrimant Shivanagari Ganesh Mandal Trust; objections to inclusion of the name of the said Trust in the deemed

conveyance and consequential mutation entry; objections to installation of a generator at the cost of the society; institution of Election Dispute No. 61 of 2018 before the Co operative Court at Pune; institution of proceedings under Section 91 of the Maharashtra Co operative Societies Act challenging the Annual General Meeting and Special General Meeting; complaints lodged with Kothrud Police Station; complaints addressed to the statutory Auditor; complaints made to individual auditors namely Mr. Hargapure and Mr. Salunke; and objections raised to recording of the name of the society in the 7/12 extract.

8. It was submitted that insofar as the complaints lodged before Kothrud Police Station are concerned, the Police Authorities did not treat the same as false or frivolous. On the contrary, the Police Authorities recorded that the dispute appeared to be of a civil nature falling within the jurisdiction of the Co operative Court and advised the petitioners to seek appropriate remedy before the competent forum. According to the petitioners, this itself demonstrates that the complaints cannot be branded as mischievous or malicious.

9. Learned counsel further submitted that with regard to the issue of installation of generator backup at the cost of the society, the material on record indicates that several other members had supported the stand taken by the petitioners. It was contended that the impugned orders have completely overlooked such material support and have erroneously treated the raising of such grievance as misconduct attributable solely to the petitioners.

10. In respect of the complaints made to the auditors, it was submitted that out of four issues raised by the petitioners, two were accepted by the auditors themselves. The auditors recorded that certain concerns raised by the petitioners required attention. It was contended that despite such findings, the authorities have characterized the actions of the petitioners as frivolous, without advertent to the auditors' observations, thereby rendering the impugned orders perverse and contrary to the record.

11. It was further submitted that a plain reading of the orders passed by the Deputy Registrar, the Divisional Joint Registrar, and the Learned Minister for Cooperation would show that the documentary material placed on record by the petitioners was neither examined nor discussed. According to the petitioners, the orders do not reflect consideration of the evidence relied upon by them.

12. Learned counsel contended that the authorities proceeded on the premise that the allegations made by the respondent society were correct, without subjecting them to independent scrutiny. On that basis, it was concluded that the acts of the petitioners were defamatory and obstructive to the functioning of the society. It was urged that such approach discloses non application of mind and failure to consider relevant material placed by the petitioners.

13. It was also submitted that the appellate and revisional authorities did not undertake any independent examination of the individual charges attributed to each petitioner. According to the petitioners, unless each charge is assessed separately with

reference to the role of each individual member, there can be no proper adjudication. The absence of such scrutiny, it was urged, constitutes a serious infirmity affecting the validity of the impugned orders.

14. Learned counsel further submitted that the impugned orders are non speaking and unreasoned. The authorities have largely reproduced the submissions of the parties and have, in brief terms, affirmed the expulsion. There is no detailed discussion of the charges or analysis of the material on record. It was contended that such mechanical exercise of jurisdiction is contrary to the settled principle that every authority exercising quasi judicial powers must record reasons in support of its conclusions.

15. It was submitted that even if the charges are considered cumulatively, they do not amount to acts detrimental to the interests or proper functioning of the society. It was urged that expulsion from a housing society has serious consequences, as it affects the member's proprietary interest in the flat and thereby implicates the protection under Article 300A of the Constitution of India. According to the petitioners, special and compelling circumstances must exist before resorting to such drastic action. The allegations, at the highest, amount to grievances raised against the managing committee and cannot be equated with acts prejudicial to the society itself. In support of these submissions, reliance was placed on the judgment of this Court in *Vishwas Laxman Karande vs. The Minister for Cooperation, State of Maharashtra & Ors.*, Writ Petition No.11078 of 2024, decided on 6 November 2025, and the decision of the Gujarat High Court in

Rajendra S. Reddy vs. Additional Registrar (Appeals) & Others, reported in (2008) 4 GLR 2772.

16. Per contra, Mr. Panchpor, learned Advocate for respondent No.1 society submitted that the action of expulsion was taken as a measure of last resort, in view of repeated complaints lodged by the petitioners against the managing committee and the society. It was contended that the charges are self explanatory and that the resolution for expulsion was passed by the requisite three fourth majority of the members. The procedure prescribed under Section 35 of the Maharashtra Co operative Societies Act read with Rules 28 and 29 of the Maharashtra Co operative Societies Rules, 1961 was duly followed. It was further submitted that the complaints filed by the petitioners compelled the society to incur unnecessary legal expenses, as the society was arrayed as a party in several proceedings concerning individual unit holders. According to the society, the acts of the petitioners squarely fall within the expression of acts detrimental to the interests of the society. It was also pointed out that the petitioners had objected to the deemed conveyance in favour of the society and had approached the Talathi to restrain entry of the society's name in the revenue record, thereby obstructing the implementation of the deemed conveyance. On these grounds, dismissal of the writ petition was sought.

Reasons and analysis:

17. This court has considered the submissions advanced on behalf of the petitioners and on behalf of respondent No.1, and the

material placed on record.

18. The core questions are as follows. Were the petitioners afforded a fair and reasoned decision before being deprived of membership? Were the decisive findings supported by material on record? Did the authorities apply their minds to the evidence placed by the petitioners?

19. The show cause notice refers to nine categories of complaints. A careful reading of those charges shows that many of them relate to steps taken by the petitioners before statutory authorities and courts. Some complaints were lodged before the police. The police did not record that the complaints were false or mischievous. On the contrary, the police advised the petitioners to approach the competent civil forum, observing that the dispute appeared to be civil in nature. This is a significant circumstance. When the police does not find criminality or abuse of process, and instead directs the parties to seek civil remedies, it becomes difficult to brand the act of filing such complaint as malicious. Mere recourse to a forum which ultimately turns out to be inappropriate cannot, by itself, establish mala fides. If that standard is accepted, every litigant who chooses a wrong forum would run the risk of punishment. That is not the scheme of Act.

20. The auditors examined the issues raised by the petitioners. Out of four points, two were found to have substance. The auditors noted that certain matters required attention. These findings were part of the record. Yet, the authorities have dismissed the entire conduct of the petitioners as frivolous. This approach is

unsustainable. An independent auditor performs a statutory function. If the auditor acknowledges merit in some complaints, the adjudicating authority must deal with that observation. It may agree or disagree, but it must give reasons. Silence on this aspect suggests that the material was not properly evaluated. A finding rendered in disregard of relevant evidence is perverse in law.

21. The orders passed by the Deputy Registrar, the Divisional Joint Registrar and the Minister do not show any meaningful discussion of the documents produced by the petitioners. The record indicates that written submissions and supporting papers were placed on file. However, the orders do not analyse them. A quasi judicial authority cannot decide a matter by merely reproducing the rival contentions and recording a conclusion. It must indicate, even briefly, how the material was appreciated. Reasons are not a formality. They are the link between the evidence and the conclusion. In the absence of such reasoning, the decision cannot be said to be the result of proper adjudication. The manner in which the authorities have approached the matter gives an impression that the allegations of the society were accepted as established facts at the outset. There is no clear exercise of weighing the petitioners' explanation against the accusations. Allegations require proof. The role of the authority is to assess both sides. When the decision reflects acceptance of one version without scrutiny of the other, it amounts to non application of mind. Such an approach is contrary to basic principles of fairness. The impugned orders do not contain any distinct analysis of the individual charges against each petitioner. Expulsion affects

individual membership and individual proprietary rights. Each petitioner is entitled to a finding on the specific acts attributed to him. A collective conclusion that all petitioners acted detrimentally, without charge wise examination, falls short of the standard required in law. Individual culpability cannot be presumed. It must be established on material. The orders are brief and largely reproduce the submissions advanced by the parties. The reasoning portion is minimal. There is no detailed discussion of how the ingredients of Section 35 are satisfied. An order which affects civil rights must disclose reasons that enable the affected party to understand why the decision has gone against him. Absence of reasons also deprives the appellate or supervisory court of the ability to test the correctness of the decision. This defect strikes at the root of the decision-making process.

22. Even if the charges are taken at face value, they do not disclose special or compelling circumstances warranting expulsion. Expulsion from a housing society is a drastic step. It has the effect of depriving a member of his position in the society that governs his residential premises. Such power must be exercised with caution and only when the conduct is clearly destructive of the collective interest. The material on record does not demonstrate such destruction.

23. Section 35 vests the society with a drastic power. Expulsion from a housing society has far-reaching civil consequences. A member does not merely lose voting rights. He stands to lose his status in the society that owns or manages the very building in which his flat is situated. His right to reside peacefully in that flat

becomes uncertain. His proprietary interest is directly affected. Such a consequence cannot be treated lightly. When a statute confers a power of this nature, the court must read it with caution. The provision cannot be interpreted in a wide manner. It must be confined to situations that clearly fall within its language and purpose. Expulsion from a housing society carries grave consequences. It cannot be invoked to curb legitimate dissent or lawful litigation. Only those acts which are harmful to the functioning of the society, and which go beyond mere assertion of legal rights, can fall within its scope.

24. The expression “acts detrimental to the interest of the society” cannot be stretched to cover every disagreement, every complaint, or every dispute between a member and the managing committee. A cooperative housing society is built on mutual trust and collective participation. Members contribute funds. They elect representatives. They are entitled to question decisions that affect their money, property, or rights. Differences of opinion are natural. Disputes may arise. That, by itself, does not damage the society. In fact, constructive criticism can strengthen governance. Therefore, lawful steps taken by a member to assert his rights cannot be equated with conduct harmful to the society.

25. The scope of Section 35 must be limited to acts that are clearly destructive of the collective interest. For example, acts involving fraud, misappropriation, violence, persistent obstruction of essential services, or conduct that makes the functioning of the society practically impossible may fall within its ambit. There must be clear and convincing material to show that the member’s

conduct has crossed the line from dissent to disruption. Mere assertion of legal remedies does not satisfy that test.

26. If lawful litigation or complaints are treated as grounds for expulsion, it would create a chilling effect. Members would hesitate to raise genuine grievances. The managing committee would operate without accountability. That result would defeat the purpose of cooperative legislation, which aims at democratic management and transparency. For these reasons, the power under Section 35 must be exercised sparingly and only in clear cases where the conduct of a member is demonstrably harmful to the collective functioning of the society. It cannot be used as a response to legitimate dissent or lawful pursuit of remedies.

27. The very foundation of the action taken against the petitioners is that they approached different forums and authorities against the office bearers of the society. This Court is unable to accept that such conduct, by itself, can be branded as an act detrimental to the interest of the society. A member of a cooperative housing society does not surrender his legal rights at the time of taking membership. He remains a citizen with full access to remedies available under law. If he believes that the affairs of the society are being conducted in a manner contrary to law, or contrary to the bye laws, he has a legitimate right to seek redress before a competent forum. To treat the act of approaching a court or statutory authority as misconduct would amount to penalizing the very exercise of a legal remedy. That cannot be the object of Section 35 of the Act. The expression “acts detrimental to the interest of the society” cannot be stretched to include lawful

invocation of judicial or statutory remedies. If such an interpretation is accepted, every dissenting voice within a cooperative society can be silenced by threat of expulsion. That would defeat the basic character of a cooperative body, which is founded on participation, accountability and collective functioning.

28. In a democratic system, access to justice is not a privilege. It is a right. A citizen cannot be placed in a disadvantageous position merely because he has knocked at the doors of a court seeking adjudication of his grievance. If the law were to discourage such recourse at the threshold, it would weaken the very structure of rule of law. Courts exist to examine disputes. They may accept or reject the claims. They may even impose costs if a claim is found to be frivolous. But that determination lies within the domain of the judicial forum. It is not for the opposite party in the litigation to punish the person for having filed the case. The office bearers of a society, who are themselves parties to disputes, cannot claim that the mere filing of proceedings against them amounts to defamation or obstruction. Accountability is inherent in any democratic institution. Members are entitled to question decisions. They are entitled to seek scrutiny of accounts, elections and administrative acts. If every such challenge is treated as hostile to the society, the managing committee would function without any effective oversight. That would create a situation where opposition is suppressed and compliance is enforced through fear of expulsion.

29. In the present case, the principal allegations against the petitioners arise from complaints and proceedings initiated by

them before competent authorities. There is no finding that such proceedings were held to be malicious or that any forum imposed penalty upon them for abuse of process. In the absence of such finding, the society cannot assume that the petitions or complaints were inherently destructive of its interests. Therefore, this Court holds that the act of approaching a court or statutory authority, by itself, cannot be characterized as detrimental to the interest of the society. To hold otherwise would strike at the root of democratic functioning within cooperative institutions and would amount to reading into Section 35 a power that the legislature never intended to confer.

30. The society has strongly urged that the petitioners attempted to stall and obstruct the effect of the deemed conveyance executed in favour of the society. According to the society, the petitioners raised objections before the revenue authorities and questioned the mutation entries arising out of the deemed conveyance. It is contended that such conduct was aimed at frustrating the collective benefit secured by the society and therefore squarely falls within the expression “acts detrimental to the interest of the society.”

31. This submission requires careful examination. A deemed conveyance, once granted by the competent authority, enables the society to secure legal title to the land and building. It is undoubtedly an important step in the life of a cooperative housing society. However, the fact that a deemed conveyance has been executed does not mean that every member is precluded from questioning the manner in which it has been processed. The record

does not show that the petitioners fabricated documents or indulged in unlawful acts to prevent implementation of the deemed conveyance. What is alleged is that they approached the Talathi and other authorities requesting that certain entries should not be made or should be examined. That step, by itself, constitutes recourse to a legal remedy. Whether the objection is ultimately accepted or rejected is a matter for the competent authority to decide. The act of raising an objection cannot automatically be equated with sabotage of the society's interests. Disagreement over the manner in which a deemed conveyance is processed cannot be treated as hostility towards the society itself. For conduct to fall within the mischief of Section 35, there must be clear material to show that the member acted with the intent to harm the society or that his acts caused substantial injury to its functioning. Mere objections before revenue authorities, in the absence of proof of malicious conduct, do not meet that threshold. Therefore, the submission of the society that the petitioners tried to stall the effect of the deemed conveyance cannot, on the facts placed before this Court, be accepted as sufficient ground to justify expulsion under Section 35.

32. The society has emphasized that the procedural requirements under Section 35 and the relevant Rules were followed and that a three fourth majority approved the resolution. Compliance with procedure is necessary. However, it does not cure defects in the reasoning process. A resolution passed by majority must still withstand scrutiny on grounds of legality and fairness. Majority support cannot validate a decision taken without proper

consideration of evidence. Procedure cannot become a shield for an arbitrary outcome.

33. On an overall assessment of the material, the impugned orders therefore suffer from non application of mind, absence of proper reasoning and failure to consider relevant material. On these ground, the orders cannot be sustained.

34. Hence, following order is passed:

(i) The orders dated 27 June 2024, 7 November 2024 and 20 August 2025 that approved and upheld the expulsion of the petitioners are quashed and set aside.

(ii) The petitioners are restored to the membership register of respondent No.1. Respondent No.1 shall reinstate the petitioners in the society records and permit them to exercise all membership rights with immediate effect.

35. No order is made as to costs.

36. At this stage, learned Advocate for respondent No.1-Society seeks stay of the order. However, for the reasons recorded in this order, oral application for stay is rejected.

(AMIT BORKAR, J.)