



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.850 OF 2026**

Madhur Naina Co-operative
Housing Society Limited

....Petitioner

V/S

1. State of Maharashtra
through Department of
Co-operation Marketing & Textile
2. Divisional Joint Registrar,
C.S. Mumbai,
3. Deputy Registrar, R/North Ward,
Co-operative Societies
4. Veena CHS Ltd. (Prop.)
Borivali East, Mumbai.

....Respondents

Mr. Karl Tamboly with Mr. Raheen Ajmerwalla i/b Ms. Priya Chaturvedi
for the Petitioner-Society.

Dr. Dhruti Kapadia, AGP *for Respondent Nos.1 to 3/State.*

Mr. Shlok Parekh i/b Mr. Dhaval A. Zaveri *for Respondent No.4-Society.*

CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 14 JULY 2026.
PRONOUNCED ON : 22 JULY 2026.

J U D G M E N T :

1. **Rule.** Rule is made returnable forthwith. With the consent of the learned counsel appearing for parties, the Petition is taken up for final hearing and disposal.

2. By this Petition, the Petitioner-Society has assailed order dated 18 November 2025 passed by the Hon'ble Minister (Co-operation) partly allowing Revision Application No.218-A of 2025 filed by Respondent No.4-proposed Society and setting aside orders dated 4 March 2025 passed by the Divisional Joint Registrar and order dated 23 January 2025 passed by the Deputy Registrar. The Hon'ble Minister (Co-operation) has remanded the proceedings to the Deputy Registrar for fresh decision. Petitioner-Society had succeeded before the Deputy Registrar and Divisional Joint Registrar in seeking dismissal of proceedings initiated by Respondent No.4 (proposed society) for bifurcation of the Petitioner-Society under Section 18 of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**). However, the impugned order passed by the Hon'ble Minister results in re-adjudication of proceedings by the Divisional Joint Registrar. Petitioner-Society is accordingly aggrieved by the remand order made by the Hon'ble Minister and has filed the present Petition.

3. Two buildings have been constructed, known as 'Naina', having 16 flats and 'Veena' having 16 flats on plot of land bearing Survey No.55, Hissa No.1A (Part), corresponding CTS No.239/B, admeasuring 1571.90 sq.m. at Village Kanheri, Taluka Borivali, Mumbai Suburban District. Petitioner is a common co-operative housing society formed by occupiers of 32 flats in Naina and Veena buildings. Petitioner-Society undertook the process of redevelopment of its two buildings and appointed M/s. Narayan Shelter to carry out the process of redevelopment by issuing Letter of Intent dated 26 January 2022. According to the Petitioner-Society, M/s. Narayan Shelter delayed the

redevelopment work and did not make any progress. While the Petitioner-Society was in the process of terminating the appointment of M/s. Narayan Shelter, the idea of bifurcating the Petitioner-Society into two separate societies for Naina building and Veena building was mooted and a proposed society in the form of Respondent No.4 was sought to be set up for Veena Building. Petitioner-Society convened Special General Meeting on 5 May 2024 and by majority of 18 out of 25 members voting, proposal for bifurcation was rejected. The Petitioner-Society issued notice of termination dated 24 June 2024 to M/s. Narayan Shelter. The Petitioner-Society invited fresh offers and M/s. Navkarmik Infra and Development Private Limited (**Navkarmik**) was selected as the new developer in Special General Body Meeting held on 28 July 2024. Accordingly, Letter of Intent dated 5 September 2024 was issued to Navkarmik.

4. In the above background, the proposed society (Respondent No.4) filed proposal for bifurcation of Petitioner-Society before the Deputy Registrar on 6 August 2024. The Deputy Registrar issued a draft copy of the proposed order to the Petitioner-Society under Section 18(1) of the MCS Act vide communication dated 11 October 2024. Petitioner-Society filed its objections to the draft order on 15 November 2024. The Mumbai District Co-operative Housing Federation Limited (**Federation**) tendered its opinion dated 14 November 2024 recommending bifurcation under Section 18 of the MCS Act. After taking into consideration the objections of the Petitioner-Society and the opinion of the Federation, the Deputy Registrar proceeded to pass order dated 23 January 2025 rejecting the

proposal for bifurcation and maintained the registration of the Petitioner-Society.

5. Respondent No.4-Proposed Society filed Appeal before the Divisional Joint Registrar, challenging the Deputy Registrar's order dated 23 January 2025. By order dated 4 March 2025, the Divisional Joint Registrar dismissed Appeal No.45 of 2025 and confirmed the order passed by the Deputy Registrar. Respondent No.4-proposed society filed Revision Application No.218-A of 2025 before the Hon'ble Minister (Co-operation). By order dated 18 November 2025, the Hon'ble Minister has partly allowed the Revision of Respondent No.4 and has set aside order dated 4 March 2025 passed by the Divisional Joint Registrar and order dated 23 January 2025 passed by the Deputy Registrar. The Hon'ble Minister has remanded the proceedings for fresh adjudication to the Deputy Registrar. Aggrieved by the order dated 18 November 2025, Petitioner-Society has filed the present Petition. By ad-interim order dated 20 January 2026, this Court has stayed the order dated 18 November 2025.

6. Mr. Tamboly, the learned counsel appearing for Petitioner-Society submits that the Hon'ble Minister has grossly erred in allowing the Revision preferred by Respondent No.4 and in remanding the proceedings to the Deputy Registrar. He submits that the Deputy Registrar and Divisional Joint Registrar have concurrently recorded findings against Respondent No.4. That only 8 out of the 32 members of the Petitioner-Society are seeking bifurcation and formation of separate

society. That bifurcation is sought by the 8 members essentially for supporting the terminated developer-M/s. Narayan Shelter. That the said 8 members have handed over possession of flats to M/s. Narayan Shelter indicating their support to the terminated developer.

7. Mr. Tamboly further submits that the required majority under Section 17 of the MCS Act does not exist in the present case and on this count, Respondent No.4 sought bifurcation by having recourse to provisions of Section 18 of the MCS Act. That none of the four eventualities envisaged under Section 18 of the MCS Act are fulfilled in the present case. That bifurcation of the Petitioner-Society is not in public interest or in the interest of members of the Society or in the interest of cooperative movement. That bifurcation is also not necessary for the purpose of securing the proper management of the Society. He relies on judgment of this Court in **Abdul Rehman Adam Dawa and Others vs. District Deputy Registrar of Co-operative Societies and Others¹**.

8. Mr. Tamboly further submits that bifurcation of the Petitioner-Society is actually counter-productive to the interest of the members. He submits that bifurcation would lead to sub-division of the plot, thereby reducing entitlement of all 32 members in the redevelopment process. That Petitioner-Society is registered in the year 1974 and has been functional for the last 52 long years. That the Petitioner-Society has efficiently managed the affairs of both the buildings for the last 52 years

¹ 2025 SCC OnLine Bom 4378

and the proposal for bifurcation is mooted only with a view to support the terminated developer. That the Hon'ble Minister has not applied his mind to these circumstances and has made a routine order of remand without commenting as to how the concurrent findings recorded by the Deputy Registrar and Divisional Joint Registrar are erroneous. He relies on judgments of the Apex Court in **Daman Singh and Ors. vs. State of Punjab and Ors.**² and of Division Bench of this Court in **Girish Mulchand Mehta and Anr. vs. Mahesh S. Mehta**³ in support of his contention that minority members of a co-operative housing society cannot put a spoke in the redevelopment process and that they must toe line with the decision taken by the majority. He submits that the proposal was based on a non-existent document viz. alleged resolution passed on 9 June 2024 by Respondent No.4-proposed society. That the said meeting was actually never held. That there is no document indicating issuance of any notices to the residents of Veena building in respect of meeting scheduled to be held on 9 June 2024. That even before this Court, Respondent No.4-proposed society has not produced any document demonstrating that notices in respect of meeting of 9 June 2024 were indeed issued to the members of Petitioner-Society residing in Veena building. That 8 residents of Veena building are not supporting Respondent No.4 for bifurcation. Lastly, Mr. Tamboly submits that the redevelopment of both the buildings of the Society has already commenced. That the existing buildings have already been demolished and members of the Society are being paid transit rent. That the members have also executed Permanent Alternate Accommodation

² (1985) 2 SCC 670

³ 2009 SCC OnLine Bom 1986

Agreements (**PAAA**) with Navkarmik. That only 8 disgruntled members have refused to accept transit rent on executing PAAAs. That remand of proceedings or fresh adjudication of the proposal at this stage would clearly affect the redevelopment process, which is the ultimate aim of Respondent No.4-proposed society. He accordingly prays for setting aside the order passed by the Hon'ble Minister.

9. Mr. Parekh, the learned counsel appearing for Respondent No.4-proposed society opposes the Petition submitting that the Hon'ble Minister has merely remanded the proceedings for fresh decision by the Deputy Registrar. That the order of remand does not cause any prejudice to the Petitioner-Society. That remand order would only enable the parties to put their case before the Deputy Registrar, who can take fresh decision after hearing both the sides. He therefore submits that this Court need not exercise extraordinary jurisdiction under Article 227 of the Constitution of India for interfering in the order of remand.

10. Mr. Parekh, the learned counsel further submits that as many as 10 residents of Veena building support bifurcation. That considering the site conditions, it is easily possible to bifurcate the two Societies. That an opinion to that effect has already been submitted by the Federation. That bifurcation does not result into reduction in entitlement of members of either of the buildings and even after bifurcation, the two societies would be able to fully exploit the redevelopment potential. He submits that the requisite conditions of Section 18 of the MCS Act are clearly fulfilled in the present case. He also relies on judgment of this

Court in ***Abdul Rehman Adam Dawa*** (supra) and submits that bifurcation is necessary both in the interest of members of the Society as well as for the purpose of securing proper management of the Society. That several issues have arisen for management of buildings of the Society and it is in the interest of justice that each building manages its own affairs through its own society. That the issue of bifurcation has little relevance to the redevelopment process. That appointment of new Developer is deliberately done with a view to avoid the bifurcation proceedings. That the residents of Veena building cannot be forced to participate in redevelopment process implemented essentially by the residents of Naina building. That the 10 out of the 16 flat occupiers of Veena building are opposed to such redevelopment process carried out by the Petitioner-Society. He submits that the Hon'ble Minister has correctly appreciated the above factual position. He has merely directed re-inquiry into the proposal which causes no prejudice to the Petitioner. He accordingly prays for dismissal of the Petition.

11. Dr. Kapadia, the learned AGP appearing for Respondent Nos.1 to 3/State also opposes the Petition submitting that the order of the Hon'ble Minister is in tune with the ratio of judgment of this Court in ***Abdul Rehman Adam Dawa*** (supra). She prays for dismissal of the Petition.

12. Rival contentions urged on behalf of parties now fall for my consideration.

13. Petitioner-Society is aggrieved by the order dated 18 November 2025 passed by the Hon'ble Minister remanding the proceedings for fresh decision by the Deputy Registrar by setting aside the orders passed by the Deputy Registrar and the Divisional Joint Registrar. Ordinarily, this Court would not have interfered in an order which merely remands the proceedings for fresh adjudication. This is because an order of remand merely results in fresh adjudication of dispute after hearing both the sides. However, it is equally well-settled that the appellate or revisional authority cannot routinely or casually make an order of remand. The Appellate or Revisional Authority needs to decide the proceedings on merits by analysing the material before it rather than making a routine order of remand for re-adjudication of the proceedings. There must exist some special circumstances for making an order of remand by the quasi-judicial authority such as violation of principles of natural justice, non-consideration of vital material on record, etc. The order of remand must be supported by cogent reasons and there must be a valid need for re-adjudication of the proceedings by the lower authorities. I accordingly proceed to determine whether grounds existed for the Hon'ble Minister to make an order of remand to the Deputy Registrar.

14. Petitioner-Society is formed in respect of two buildings namely 'Naina' and 'Veena', each having 16 flats. There are thus total 32 flats in the two buildings of the Petitioner-Society. 8 members of the Petitioner-Society apparently mooted a proposal and desired formation of a separate society in respect of Veena building. With that objective, a

proposed society (Respondent No.4) was formed and a proposal was submitted before the Deputy Registrar for bifurcation of the Petitioner-Society. The proposal dated 6 August 2024 was preceded by Special General Body Meeting held on 5 May 2024, in which the issue of bifurcation of the Society was discussed. The Special General Meeting was attended by 25 members out of the total 32 members and only 7 members voted in favour of the bifurcation, whereas 18 members opposed the same. This is how the Petitioner-Society adopted a resolution against bifurcation.

15. Under Section 17 of the MCS Act, a society can, with the previous approval of the Registrar, amalgamate with another society, transfer its assets and liabilities to other society, divide itself into two or more societies or convert itself into another class of society by adopting a resolution with two-third majority of members present and voting at the special general meeting held for that purpose. Section 17 of the MCS Act provides thus:

17. Amalgamation, transfer, division or conversion of societies.—

(1) A society may, with the previous approval of the Registrar, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide—

- (a) to amalgamate with another society;
- (b) to transfer its assets and liabilities, in whole or in part, to any other society;
- (c) to divide itself into two or more societies; or
- (d) to convert itself into another class of society:

Provided that, when such amalgamation, transfer, division or conversion, aforesaid, involves a transfer of the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that—

(i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be,

(ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and

(iii) all claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full or otherwise satisfied:

Provided further that, in case of societies doing the business of banking, no such amalgamation, transfer, division or conversion shall be initiated without the prior approval of the Reserve Bank of India.

(2) Notwithstanding anything contained in the Transfer of Property Act, 1882 (IV of 1882), or the Indian Registration Act, 1908 (XVI of 1908), in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.

(3) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society, or, as the case may be, the converted society, or the new societies.

(4) Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society shall be cancelled on the date of registration of the amalgamated society, or the converted society, or the new societies between which the society may have been divided.

16. In the present case, though Special General Meeting of the Petitioner-Society was held on 5 May 2024, resolution was not adopted by two-third of members present and voting for division of the Society into two societies.

17. Faced with the situation that the requisite resolution for division of society under Section 17 was not available, it appears that Respondent No.4- proposed society relied on minutes of the alleged meeting held on 9 June 2024. The meeting of 9 June 2024 is not of Petitioner-Society but shown to have been conducted only in respect of members of a proposed society (Respondent No.4). In the so called resolution dated 9 June 2024 adopted by Respondent No.4-proposed society, it was resolved to authorize Chief Promoter of the proposed society (Shri. Govind Bodke) to submit proposal for bifurcation of the society. Accordingly, a proposal dated 6 August 2024 was apparently submitted to the Deputy Registrar along with the alleged resolution dated 9 June 2024.

18. Acting on the proposal dated 6 August 2024, the Deputy Registrar decided to exercise powers under Section 18(1) of the MCS Act which empowers the Registrar to direct amalgamation, division or reorganization of Societies. Section 18 of the MCS Act provides thus:

18. Power to direct amalgamation, division and reorganisation in the public interest of members, etc.—

(1) Where the Registrar is satisfied that it is essential in the public interest or in the interest of members of such societies, or in the interest of the co-operative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganised then notwithstanding anything contained in the last preceding section but subject

to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the State Government by order notified in the Official Gazette, provide for the amalgamation, division or reorganisation of those societies into a single society, or into societies with such constitution, property, rights, interests and authorities, and such liabilities, duties and obligations, as may be specified in the order :

Provided that, such notified federal society shall communicate its opinion to the Registrar within a period of forty-five days from the date of receipt of communication, failing which it shall be presumed that such federal society has no objection to the amalgamation, division or reorganisation and the Registrar shall be at liberty to proceed further to take action accordingly.

(2) No order shall be made under this section, unless—

- (a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned ;
- (b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, either from the society or from any member or class of members thereof, or from any creditor or class of creditors.

(3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, the division or reorganisation.

(4) Every member or creditor of, or other person interested in, each of the societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganisation, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganisation his share or interest, if he be a member, and the amount in satisfaction of his dues if he be a creditor.

(5) On the issue of an order under sub-section (1), the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or reorganised as if they were amalgamated, divided or reorganised under that section, and to the society amalgamated, divided or reorganised.

(6) Nothing contained in this section shall apply for the amalgamation of two or more co-operative banks or two or more primary agricultural credit societies.

19. Thus, under provisions of Section 18(1) of the MCS Act, the Registrar can direct amalgamation of two or more societies or division of one society into two or more societies or reorganization of the societies after recording the satisfaction that it is necessary to do so either (i) in the public interest, (ii) or in the interest of members of the societies, (iii) or in the interest of co-operative movement, (iv) or for the purpose of securing the proper management of the society. Under the provisions of Section 18(1) of the MCS Act, it is necessary for the Registrar to consult the Federal Society before making an order of amalgamation, division or reorganization. Under sub-Section (2) of the Section 18 of the MCS Act, no order of amalgamation, division or reorganization can be made unless copy of the proposed order is sent in draft to the society and the Registrar considers the suggestions and objections to such draft order.

20. Accordingly, the Deputy Registrar prepared a draft order dated 11 October 2024 acting on the proposal dated 6 August 2024 submitted by Respondent No.4-proposed society. Under the draft order prepared under Section 18(1) of the MCS Act read with Rule 17 of the Maharashtra Co-operative Societies Rules, 1961 (**MCS Rules**), the Deputy Registrar proposed to retain registration of Petitioner-Society by bifurcating the same and by registering Respondent No.4-proposed society. The draft order was directed to be published on notice board of the Society for inviting suggestions and objections. The Federation was directed to submit its opinion about the proposed bifurcation within 45 days.

21. Petitioner-Society submitted its objections to the draft order of bifurcation. The Federation gave its opinion vide letter dated 14 November 2024 in favour of bifurcation.

22. The Deputy Registrar took into consideration objections submitted by the Petitioner-Society as well as opinion of the Federation and passed order dated 23 January 2025, rejecting the draft order for bifurcation and maintaining the registration of the Petitioner-Society. Perusal of the order dated 23 January 2025 passed by the Deputy Registrar would indicate detailed application of mind to various aspects. It would be apposite to reproduce the observations and findings recorded by the Deputy Registrar in order dated 23 January 2024, which are as under:

1. The proposal for wing-wise division of Naina and Veena Wings submitted by the proposed Veena Co-op. Hsg. Soc., Mhatre Cross Lane, Dattapada Road, Borivali (E), Mumbai was rejected by the original Society on 05.05.2024 by 18 against 7 votes. Therefore the members of Veena Wing held Special General body meeting on 09.06.2024 for registration of new Veena Society and after electing Chief Promoter in the general body meeting dt. 09.06.2024, 9 members out of 16 members attended the said meeting and gave consent for the proposal of division.

2. On the basis of the original proposal submitted by the proposed Veena Co-op. Housing Society, the written and oral say submitted by the original Society and by the Chief promoter of the proposed Society as well as the opinion of Mumbai District Housing Societies Federation, following are the main observations.

3. The proposal of division of the societies was rejected in the general body meeting of original society Madhurnaina Co-op. Housing Soc. Ltd. dt. 05.05.2024 by 18 against 7 votes.

4. Thereafter, it was observed that the members in Veena Building in the original Society had elected Chief Promoter on 09.06.2024. It is the say of the Chief Promoter that intimation of the same was displayed on the Society's

notice board. However, the documents submitted during the hearing do not show that the said notice was given to 16 members in Veena Building and their acknowledgement was obtained. Further, it has surfaced during the hearing that all the members in that building had not received the said notice. Therefore, the meeting of the proposed Veena Co-op. Housing Soc. Ltd. dated 09.06.2024 wherein the Chief Promoter was elected, does not appear to have been held in prescribed and transparent manner. Therefore, it would be inappropriate to further deal with the resolution passed in the said meeting. Further, even the support of majority members of Veena Building desiring to get divided also does not appear to be there for the said proposal.

5. The Society was registered around 50 years back and the proposal for division of the society appears to have been filed only because there is no unanimity amongst the members of the original Madhurnaina Society in the redevelopment process. It has surfaced during the hearing that the routine affairs of the society were being handled smoothly since past 50 years. Therefore, it does not seem to be justifiable to divide the original society for the sole reason of lack of unanimity amongst the members in redevelopment process.

6. Area of the Society is 1571 square mtrs., and if the society is divided, obviously there is a possibility that both the societies may get lesser area resulting in less benefits that would have been available to the members by way of bigger plot in the redevelopment process. This can be observed if the feasibility report of the architect sent by the original society is studied, which foresees the possibility of financial loss to all the members.

7. The Registrar, while issuing the order on its own for allowing the division of the Society under Section 18 (1), is not expected merely to consider any certain intention, but has to consider whether it would be difficult for the members to perform the routine affairs of the Society without dividing the Society. In this case, there is no unanimity amongst the members merely in the matter of redevelopment, and only 8-9 members out of 32 have expressed their desire to go for division. However, all other members are against it and therefore, no obstruction seems to have created in handling the routine affairs of the Society.

8. If the members have objections in redevelopment process, they can express their view in the general body meeting and can take decision by majority. To opt for division when majority of the members are against it, will be against the desire of the members nor will it be in their interest.

9. As per the opinion given by Mumbai District Cooperative Housing Federation, there is a separate entrance gate, separate electricity meter, separate water tank, and hence the opinion is given that there will not be any scope for issues relating to maintenance and repairs amongst the members if

separate society is registered / division takes place. However, it was not noticed during the hearing that the Chief Promoter of the Society was facing difficulties relating to routine work or maintenance. Therefore, the opinion of the Federation in this case becomes inapplicable.

10. In an overall, although certain technical aspects required for the division are getting complied with, there is a possibility that the division as mentioned in the above opinion is likely to cause more losses than the benefits to the members. Therefore, in view of the reasons such as obstacle in redevelopment process, possibility of financial loss to the members, majority of members especially most of the members in the proposed Veena Society Building being in opposition, I am convinced that it would be necessary to withdraw the Draft Order of this Office at Ref. No. 2 in the interest of both the parties i.e. original Madhurnaina Co-op. Hsg. Soc. Ltd., Borivali East, Mumbai and the proposed Veena Co-op. Hsg. Soc. Ltd., and also in the interest of their members, therefore I pass the following order.

23. The order passed by the Deputy Registrar has been confirmed in Appeal by the Divisional Joint Registrar vide order dated 4 March 2025. The conclusions drawn by the Divisional Joint Registrar in the order dated 4 March 2025 read thus:

It seems that the Respondent society has been registered on 08/02/1974 under the Respondent society consists of two building known as Madhur Naina & Veena Building consist of 16 members each i.e. total 32 members. It seems that the proposed Appellant society filed proposal for bifurcation of the Veena Building society before the Respondent Deputy Registrar on 06/08/2024. In pursuance to that the Respondent Deputy Registrar issued Draft Order dated 11/10/2024. Further, it seems that the Respondent No. 2 society filed their opinion on 18/11/2024. Further, the Federal society filed their letter dated 26/11/2024. Thereafter, the Respondent Deputy Registrar issued notice of hearing dated 10/12/2024. Thereafter, the Respondent No.2 filed their written reply dated 18/11/2024 on the aforesaid draft order. Further, the Appellant also filed their explanation on objections on 02/12/2024 and written arguments on 13/01/2025. So also, the Respondent No.2 filed their written arguments on 13/01/2025. Thereafter, the Respondent Deputy Registrar after considering the pleadings and documents of the rival by impugned order dated 23/01/2025 u/s 18 of the M.C.S. Act 1960 and Rule 17 of the M.C.S. Rules 1961 has rejected the Application filed by proposed Appellant society for bifurcation of Respondent No. 2 society.

In the present case, it seems that in the Special General Body Meeting held on 05/05/2024 has rejected the proposal for bifurcation of the Madhur Naina & Veena Building by majority of 18 members against 07 members. Further, it appears that 09 out of 16 members in the Special General Body Meeting held on 09/06/2024 have again rejected the proposal for bifurcation.

Further, it seems that the registration of the Respondent No. 2 society is around 50 years old. Accordingly, it appears the Respondent No. 2 society has initiated redevelopment process of their buildings. Further, it seems that there is only one common main entrance for both buildings. There is common parking area for both buildings. Further, it appears that the total area of plot measures around 1,571 square meters. Therefore, due to bifurcation of the Respondent No. 2 society, the members of both buildings will not avail more benefits in the redevelopment process. Further, it appears that out of 32 members only 8-9 members are in favor of the aforesaid bifurcation. Hence, it seems that majority of members of the Respondent No. 2 society are not in favor of the aforesaid bifurcation. Therefore, considering the aforesaid facts, circumstance and the major interest of the members of the Respondent No. 2 society, the Respondent Deputy Registrar has passed the impugned order with proper justifications

24. When a Revision was filed by the Respondent No.4-proposed society before the Hon'ble Minister challenging the orders passed by the Deputy Registrar and the Divisional Joint Registrar, it was expected that the revisional authority would deal with the above-quoted findings recorded by the Deputy Registrar and the Divisional Joint Registrar. However, perusal of the order dated 18 November 2025 passed by the Hon'ble Minister would indicate that he has recorded general and vague findings for making an order of remand by setting aside the orders of Deputy Registrar and Divisional Joint Registrar. After noting the rival contentions and the background in which Revision was filed, the Hon'ble Minister has recorded following findings for making an order of remand:

Looking at the say of both the parties, the proposed Applicant Society had conducted a meeting of members of Veena Building on 09.06.2024 and elected Shri. Govind Bodke as Chief Promoter of the Society and had made a request on

06.08.2024 to divide the Respondent No. 3 Society and register the Applicant Society. Pursuant to this, the Respondent No. 2 had issued Draft Order for division of Respondent No. 3 Society on 11.10.2024 as per Section 18 and Rule 17 and had also called for the suggestions and objections from members of Respondent No.3 society and as well as the opinion from the Federation, whereupon the Respondent No. 3 Society has raised objection against the Draft Order of the said division, and the Federation also has submitted their opinion on division. As per the said opinion, there is separate entrance gate for the building and separate arrangement of electricity meter, water tank and hence the division of Respondent No. 3 Society will not leave any scope for issues relating to the maintenance and repairs. Similarly a favourable opinion is given stating that it would be appropriate to divide the society as the structure of the building is separate. However, even after getting favourable opinion from the Federation, the Respondent No. 2 has drawn inference that the division of the Society may provide lesser to both the societies that would be newly formed and the members will not get the benefits of plot of larger area and therefore the division of the Society is not practicable.

However, while drawing such inference, the Respondent No. 2 does not appear to have taken into consideration with reasoning, the disputes amongst members in two buildings that are giving rise to difficulties in functioning of the Society and therefore whether it is practicable to allow division of the Society. It is the opinion of Respondent No. 2 that the division of the Respondent No. 3 Society in the present case may provide lesser area available to both the societies to be newly formed whereby the benefits of plot of larger area will not be available to the members. However, looking at the provision in Section 154B-2 (4), the Respondent No. 2 has not given a thought to an option to see whether interest of both the societies can be achieved by forming Cooperative Housing Federation of two societies that would be newly formed for the purpose of maintenance and for the common amenities in respect of a single layout or plot. Further, the Applicant and the Respondent No. 3 have made contradictory statements regarding separate entrance gates, sewage system, water supply, electricity meter etc. However, the Respondent No. 2 does not appear to have verified whether such amenities are separate and in what way they can affect the division. Respondent No. 3 Society has mentioned that the said proposal of division was rejected by majority in the general body meeting of the Society. However, as per the provision in Section 18 and Rule 17, such majority is not required, and broader thought has to be given by the Registrar to see whether division of the Society should be allowed in the public interest and also in the interest of cooperative movement or in the interest of the members. However, it appears that the Respondent No. 2 has passed the order dt. 23.01.2024 without contemplating to see whether the division of the Society will be practicable or not. Similarly, the Respondent No. 1 also has passed the vague order on 04.03.2025 without considering the factual situation.

25. The Deputy Registrar had recorded a specific finding in his order that Respondent No.4-proposed society did not produce any document to indicate that notice in respect of alleged meeting of 9 June 2024 was served on all 16 residents of Veena building. In its Appeal filed before the Divisional Joint Registrar or in Revision filed before the Hon'ble Minister, Respondent No.4-proposed society did not make any attempt to demonstrate as to how the said findings of the Deputy Registrar were factually incorrect. However, the Hon'ble Minister has blindly relied on the so-called resolution dated 9 June 2024 shown to have been adopted by residents of Veena building. Even before this Court, Respondent No.4-proposed society, apart from placing on record minutes of the meeting dated 9 June 2024, has not produced any notice in respect of the said meeting. This indicates that notice in respect of the alleged meeting of 9 June 2024 was not served even on all residents of Veena Building. Thus, it clearly appears that even though the meeting in respect of residents of Veena building was not validly conducted by serving a notice thereof to all the 16 residents, this aspect is completely glossed over by the Hon'ble Minister, who has ignored specific findings of the Deputy Registrar about invalidity of resolution adopted in alleged meeting of 9 June 2024.

26. It must also be noted that invalidity of resolution of 9 June 2024 goes to the root of the matter as the very proposal dated 6 August 2024 was premised on the said resolution. Otherwise, an attempt was earlier made to have bifurcation of Society under Section 17 of the MCS Act by adopting resolution in Special General Meeting of the Petitioner-Society. However, out of 25 members present and voting, 18 members opposed

the proposal for bifurcation and only 7 members had voted in favour of bifurcation. In my view therefore, the order passed by the Hon'ble Minister suffers from gross non-application of mind to the position that the alleged resolution of 9 June 2024 itself was invalid, resulting in filing of faulty proposal by the Respondent No. 4.

27. Both Deputy Registrar as well as Divisional Joint Registrar had recorded emphatic findings that Petitioner-Society has been in existence for over 50 years and that day-to-day work of the society has been smoothly conducted for 50 long years. This aspect is again totally glossed over by the Hon'ble Minister, who has not recorded any conclusive findings that any difficulties are created in working of the Society which needs bifurcation thereof into two societies. Instead of recording his own opinion in respect of existence of any difficulties in administration of the society, the Hon'ble Minister has recorded an absolutely vague finding that the order passed by the Deputy Registrar does not show application of mind about difficulties in functioning of the Society due to disputes amongst the members. This finding is factually incorrect as the Deputy Registrar has recorded emphatic finding that no difficulties were created in administration of the Society for over 50 years. The Deputy Registrar had rightly held that the dispute was not with regard to day to day functioning of the Society, but only with regard to the redevelopment process. This aspect is again ignored by the Hon'ble Minister, who has recorded vague and erroneous findings about non-application of mind by the Deputy Registrar. If at all there is any non-application of mind, the same is on the part of the Hon'ble Minister.

28. The Deputy Registrar also recorded a finding that two buildings of the Society are situated on land admeasuring 1571 sq.m. and if the Society is bifurcated, the members of the Society would suffer in terms of redevelopment benefits. This finding is recorded by the Deputy Registrar after taking into consideration the feasibility report submitted by the Petitioner-Society. The Hon'ble Minister, however, did not bother to consider the said feasibility report and has recorded a vague and baseless finding that the Deputy Registrar did not consider the provisions of Section 154B-2(4) of the MCS Act for formation of co-operative housing association for looking after common amenities. Mere possibility of formation of co-operative housing association for looking after common amenities does not mean that members of the society would receive same benefits even after bifurcation. The feasibility report relied upon before the Deputy Registrar is placed on record by the Petitioner-Society at Exhibit-Q to the Petition, which indicates that the planning opportunities would get hampered due to sub-division of the plot. Similarly, utilization of higher FSI under available schemes would be restricted. Veena building would get affected due to irregular odd-shaped plot coming to its share. A mechanical parking system will have to be provided resulting into higher maintenance and AMC charges and even amenities and other facilities would get compromised due to smaller plot sizes for each building. On the other hand, if common redevelopment of both the buildings is undertaken, the redevelopment would happen under Regulation 33(20)(B) of DCPR 2034 for higher FSI 4.00 plus fungible area as against FSI of only 2.00 plus fungible area under Regulation 33(7)(B) upon bifurcation. Better amenities and

facilities can be provided due to larger plot size, parking can be planned more efficiently with minimal reliance on mechanical systems etc. Thus, the Deputy Registrar was taken through feasibility report on the basis of which he recorded a finding of fact that the bifurcation of Society would result in lesser carpet area and amenities to the members. Instead of dealing with this finding of fact with reference to the feasibility report, the Hon'ble Minister has recorded a vague finding that the Deputy Registrar did not consider provisions of Section 154B-2(4) of the MCS Act under which co-operative housing association could be formed in respect of the two societies.

29. It appears that Respondent No.4-proposed society did not produce any counter-feasibility report to suggest that benefits to the members would be same even after independent redevelopment undertaken in respect of bifurcated Society. Though Mr. Parekh has orally sought to suggest before me that redevelopment rights would not be affected, no material is produced even before me to counter the contents of feasibility report produced by the Petitioner-Society. Thus, even *qua* the reason of receipt of lesser redevelopment benefits upon bifurcation, the order passed by the Hon'ble Minister is clearly erroneous.

30. So far as the issue of feasibility to divide facilities such as entry gate, sewage system, water supply, electricity meters, etc. is concerned, the Hon'ble Minister has recorded a vague finding that Deputy Registrar did not verify possibility of such division. On the other hand, order of the Deputy Registrar would indicate that he has recorded a clear finding that

only one entry gate is available in respect of the plot and entry of vehicles would get affected upon bifurcation of the Society. He has also recorded a finding that there was common parking system for both the buildings which would also get affected upon bifurcation of Society. Thus, the Deputy Registrar applied his mind to difficulties in bifurcating common amenities on creation of two societies.

31. The Hon'ble Minister has also recorded a finding that the Deputy Registrar did not apply his mind as to whether bifurcation was in public interest or in the interest of Society members or in the interest of co-operative movement. Perusal of the order of the Deputy Registrar would indicate that bifurcation of the Society would be against the interest of the members of the Society and would also not aid proper management of the Society. Thus, the Deputy Registrar had applied his mind to the provisions of Section 18 of the MCS Act and did not reject the proposal for bifurcation by relying solely on resolution adopted in Special General Meeting of the Petitioner-Society.

32. For the above reasons, the order passed by the Hon'ble Minister is clearly erroneous and no case was made out by Respondent No.4-proposed society for conducting re-adjudication of its proposal by setting aside the concurrent findings recorded by the Deputy Registrar and the Divisional Joint Registrar.

33. The scope of exercise of powers by the Registrar under Section 18 of the MCS Act has been discussed by this Court in its judgment in ***Abdul Rehman Adam Dawa*** (supra). This Court has discussed the

factors required for examining existence of all the four factors enumerated under Section 18 of the MCS Act viz. it is essential (i) in the public interest, (ii) in the interest of members of such Societies, (iii) in the interest of the Co-operative movement and (iv) for the purpose of securing the proper management of any society. This Court held that for applying the ground of '*in the public interest*', the decision must serve purpose wider than individual benefit and the Registrar must record a clear finding that the step is necessary for public welfare, civic administration, safety or transparent use of resources. The power cannot be exercised merely because a group desires separation or amalgamation. The benefit must be to the public or to a substantial body of members whose safety, facilities and legal rights are affected. Similarly, for the ground of '*in the interest of members of such societies*', the Registrar must be satisfied that the proposed action is required for welfare of members and that the change would ensure better administration, transparency and protection of rights of members. For invoking the ground of '*in the interest of co-operative movement*', a situation must exist where the step taken would help the co-operative societies become more democratic, financially sound and member oriented. It is held that mere desire of few members for separation is not sufficient and the change must promote co-operative value and ensure that societies function in a responsible and democratic manner. Lastly, for invoking the ground of '*for the purpose of securing the proper management of any society*', it is held that the Registrar can step in only when the existing set up proves unmanageable or creates obstacles for lawful and efficient functioning.

34. Applying tests discussed by this Court in ***Abdul Rehman Adam Dawa*** (supra), in my view, none of the four enumerated grounds under Section 18(1) of the MCS Act could validly be invoked by the Registrar in the facts and circumstances of the present case. Far from achieving the collective welfare of members, better administration/management and preservation of common facilities, bifurcation would clearly be counter-productive to the interest of the members. The bifurcation is sought in the present case by Respondent No.4-proposed society, which is formed by only 8 members for opposing redevelopment undertaken by the Petitioner-Society. In fact, Mr. Tamboly does not appear to be entirely wrong in accusing the 8 members in backing the terminated developer (M/s. Narayan Shelter). It appears that while vacating their respective flats, the said 8 members have pasted a declaration that the possession of their flats is handed over to M/s. Narayan Shelter. The Minutes of Special General Meeting dated 5 May 2024 also indicates the desire of 7 opposing members to have the redevelopment implemented through M/s. Narayan Shelter. This clearly indicates opposition by the said 8 members to redevelopment process through the developer appointed by Petitioner-Society (Navkarmik) and desire to execute redevelopment only through the terminated developer (M/s. Narayan Shelter). This objective to have the redevelopment implemented through desired developer cannot be the reason for the Deputy Registrar to adopt extraordinary measure of bifurcating the 50 year old society.

35. Bifurcation of existing co-operative housing society under Section 18 of the MCS Act cannot be resorted to for the purpose of achieving the

objective of frustrating the redevelopment process undertaken by the Petitioner-Society. The minority members, who are unable to oppose the redevelopment process or who desire the same to be executed through a particular developer, cannot adopt indirect route of seeking sub-division of the society under Section 18 of the MCS Act. It is well settled position that in a cooperative housing society, members who oppose redevelopment process need to respect the majority decision. A cooperative housing society is ultimately run by the majority decisions expressed through general body resolutions. Merely because the decision taken by majority is not palatable to the desires of minority members, the same cannot be a reason for stopping the redevelopment process. The law in this regard is well settled by the judgment of the Apex Court in **Daman Singh** (supra) as followed by the Division Bench of this Court in **Girish Mulchand Mehta** (supra). In the present case, 8 minority members mooted the proposal for bifurcation with the sole objective of scuttling the redevelopment through developer appointed by the Petitioner-Society. There is no other objective for seeking bifurcation of the Society. In my view therefore, the Deputy Registrar and Divisional Joint Registrar had rightly appreciated this position and bifurcation proposal was rightly rejected holding that mere existence of disputes between members regarding redevelopment cannot be a reason enough for ordering bifurcation/division of the Society. Section 18 of the MCS Act does not permit bifurcation of existing society merely because members of the society are not on the same page for undertaking redevelopment of its buildings.

36. This Court also takes note of the timing at which Respondent No.4 mooted the proposal for bifurcation. A Special General Meeting of the Petitioner-Society was held on 5 May 2024 in which the proposal for bifurcation of Society was defeated by 7 versus 18 votes. In the same meeting, it was resolved to terminate the appointment of M/s. Narayan Shelter. However, the resolution records support of 7 members for carrying out redevelopment process through M/s. Narayan Shelter. Immediately after passing of resolution in the Special General Meeting on 5 May 2024, Respondent No.4-proposed society brought into existence the so-called resolution adopted by residents of Veena building on 9 June 2024. This was done clearly with a view to scuttle the termination of the earlier developer by taking bifurcation route. The Petitioner-Society issued termination notice dated 24 June 2024 to M/s. Narayan Shelter. Immediately thereafter, the Society invited offers for appointment of new developer and Navkarmik submitted its offer on 25 July 2024. The Special General Meeting of the Society was held on 28 July 2024 appointing Navkarmik as the new developer. Immediately thereafter, Respondent No.4 filed proposal for bifurcation of the Society on 6 August 2024. This timeline would leave no manner of doubt that proposal for bifurcation was mooted and submitted solely for the purpose of creating hurdles in redevelopment process through the new developer - Navkarmik. It is unfortunate that the Hon'ble Minister has ignored this position and has erroneously directed remand of the proceedings for fresh adjudication with a view to assist Respondent No.4-proposed society in its devious plans of creating hurdles in the redevelopment process.

37. This Court also needs to be alive to the factual situation at the ground. Both the buildings of the Petitioner-Society 'Veena' and 'Naina' are now completely demolished. The new developer has started paying rent to the members of the Society except the 8 opposing members, who appear to be in favour of the terminated developer M/s. Narayan Shelter. All other members have apparently executed PAAAs and are receiving rent from the new developer. Mr. Parekh has fairly admitted the factual position that both the buildings have been demolished. He, however, submits that there is no satisfactory progress in construction of the new building. However, no material is brought on record to demonstrate the same. Respondent No.4-proposed society has not even bothered to file affidavit-in-reply though it has made appearance in the Petition on 10 February 2026.

38. Now that the buildings of Petitioner-Society - Naina and Veena are demolished and the redevelopment is at an advance stage, re-adjudication of proceedings by the Deputy Registrar for bifurcation is otherwise unnecessary. Since the buildings are demolished, the Deputy Registrar will not be able to verify possibility of division of amenities such as gate, sewerage lines, parking, electricity, etc. The new developer must have already submitted plans for construction of new building by taking into consideration all 32 flats of Naina and Veena buildings. Now if bifurcation of the Society is considered, the same would result in grave prejudice to other supporting members. If bifurcation is effected at this stage, the same would result in termination of the new developer. The residents have already lost possession of their homes. If at this stage, the

developer is terminated, payment of rent would stop and the residents would be left in lurch, resulting in endless litigation with the developer. In my view therefore, it is otherwise not expedient to once again decide the issue of sub-division/bifurcation of the Petitioner-Society at this distant point of time. The subsequent developments have rendered the issue of sub-division/bifurcation of Petitioner-Society virtually academic. This is yet another reason why the impugned order passed by the Hon'ble Minister deserves to be set aside.

39. The conspectus of the above discussion is that the impugned order passed by the Hon'ble Minister is indefensible and liable to be set aside. The Deputy Registrar and the Divisional Joint Registrar had rightly rejected the proposal of bifurcation of Petitioner-Society by recording cogent reasons in their respective orders. On the other hand, the Hon'ble Minister has failed to record even a single valid reason for remanding the proceedings. The Petition accordingly succeeds and I proceed to pass the following order:

- i) Order dated 18 November 2025 passed by the Hon'ble Minister (Co-operation) in Revision Application No.218-A of 2025 is set aside.
- ii) Order dated 23 January 2025 passed by the Deputy Registrar and order dated 4 March 2025 passed by the Divisional Joint Registrar are confirmed.

40. Writ Petition is **allowed** in above terms. Rule is made absolute.
There shall be no order as to costs.

(SANDEEP V. MARNE, J.)