

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15261 OF 2023

Mr. Shreesh Kumar and Others.

...Petitioners

V/s.

Bramha Suncity Co-operative Housing
Society Ltd. And Others.

...Respondents

Mr. Sitesh Sharma with Mr. Vijay Upadhyay & Ms. Sakshi Upadhyay, for
the Petitioners.

Mr. Shailendra S. Kanetkar with Mr. Pranay Kothari, for Respondent
No. 4.

CORAM: SANDEEP V. MARNE, J.

JUDGMENT RESD. ON : 29 June 2026.

JUDGMENT PRON. ON: 8 JULY 2026

JUDGMENT :

1) The issue that arises for consideration in this petition is whether the powers of a Co-operative Court to implead parties under Section 94(3)(c) of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**) is restricted to impleadment of only persons enumerated

under Section 91(1)(a) to (e) and *pendente-lite* purchasers or is it permissible to implead to the dispute other persons as well.

2) The issue arises in the light of challenge raised by the Petitioners to the order dated 19 August 2023 passed by the Co-operative Appellate Court, Pune dismissing Revision Application No. 27 of 2023 and confirming the order dated 14 March 2023 passed by the Co-operative Court on Application at Exh.15. By order dated 14 March 2023, the Co-operative Court has allowed the Application at Exh.15 filed by Respondent No.4 and has directed impleadment of Respondent No.4 as party to the Dispute. Petitioners are thus aggrieved by impleadment of Respondent No.4 to Dispute No.106/2021 filed by them and have accordingly filed the present petition.

3) Petitioners are members of Bramha Suncity Co-operative Housing Soc. Limited which is formed by the purchasers of flats in the complex known as 'Bramha Suncity' and registered under the provisions of MCS Act. The Society is formed in respect of 26 buildings comprising of 1277 members. The buildings of the Society are situated on vast tract of land at Wadgaonsheri, Pune. According to the Petitioners, the FSI consumed for construction of 26 buildings of the Society is about 96,196.30 sq.mtrs. Respondent No.4-Bramha Corporation Ltd. is the promoter, who has constructed the buildings of the Society. The Society called upon the promoter to convey the land and thereafter filed Deemed Conveyance Application No.227 of 2013 before the Competent Authority under Section 11 of Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963

(MOFA) which was initially returned to the society. A fresh Application for deemed conveyance was filed by the society, which was again rejected by Order dated 12 August 2017 on the ground of non-completion of layout development. The Society filed Writ Petition in this Court challenging the order of rejection dated 12 August 2017. Additionally, the Society also filed Regular Civil Suit No. 69 of 2018 against the Promoter and land owners seeking injunction from revising the sanctioned building plans, alteration of amenities, etc.

4) In the background of the aforesaid disputes between the Society and the promoter, compromise/settlement talks took place between the Society and the promoter. Towards such compromise, the General Body of the Society adopted Resolution in the Special General Body meeting held on 14 October 2018 accepting the settlement proposal of the promoter. Similarly, the Managing Committee of the society adopted Resolution in the meeting dated 20 October 2018 towards acceptance of the settlement proposal of the developer. According to the Petitioners, acceptance of settlement proposal by the General Body and Managing Committee of the Society has grossly reduced the land entitlement of the Society. The Petitioners have accordingly instituted Dispute No. 106 of 2021 challenging the Resolution adopted in Special General Body Meeting dated 14 October 2018 and Resolution adopted by the Managing Committee in the meeting of 20 October 2018. In the Dispute, Petitioners impleaded only the Society through its Chairman and Secretary and two other individuals, being the ex-chairman and ex-secretary. The Promoter (*Respondent No.4*) filed application at Exh.15 seeking its impleadment as

a party opponent to the dispute. The Application was resisted by the Petitioners by filing reply. The Co-operative Court has however allowed the Application filed by Respondent No.4 at Exh.15 by order dated 14 March 2023. The Co-operative Court directed impleadment of Respondent No.4 as Opponent No.4 to the dispute.

5) Petitioners got aggrieved by impleadment of Respondent No.4 by order dated 14 March 2023 and accordingly filed Revision Application No. 27 of 2023 before the Co-operative Appellate Court. By judgment and order dated 19 August 2023, the Co-operative Appellate Court has dismissed the Revision preferred by the Petitioners. Accordingly, Petitioners have filed the present petition challenging the order passed by the Co-operative Court dated 14 March 2023 and the order passed by the Co-operative Appellate Court dated 19 August 2023. By order dated 6 February 2024, this Court directed that no coercive steps be taken against the Petitioner for non-compliance with the order dated 14 March 2023.

6) Mr. Sharma, the learned counsel appearing for the Petitioners submits that the Co-operative Court and the Co-operative Appellate Court have grossly erred in directing impleadment of Respondent No.4 to the Dispute, as Respondent No.4 is a rank stranger to the Dispute which needs to be adjudicated strictly in terms of provisions of Section 91 of the MCS Act. That no adjudication is permissible by the Co-operative Court of a Dispute beyond the five categories specified in Section 91 and in respect of those who are not the enumerated persons in Section 91(1)(a) to (e) of the MCS Act. That Co-

operative Court is a creature of statute and its functions like jurisdiction are to be governed strictly by the provisions of Section 91 to 97 of the MCS Act. That Respondent No.4 is not covered by the list of persons enumerated in Section 91(1)(a) to (e) of the MCS Act. That only exception to the enumerated persons is to be found in Section 94(3)(a) which permits addition of third-party acquiring interest in the property of the person who is party to the Dispute. That for being qualified as such person, acquisition of interest must happen *pendente-lite* of such Dispute. That Respondent No.4 does not answer the requirement of Section 94(3)(a) of the MCS Act.

7) Mr. Sharma further submits that both the Courts have erroneously relied on the provisions of Section 94(3)(c) of the MCS Act for permitting impleadment of third-party intervenor. That Section 94(3)(c) is an enabling provision solely to facilitate the impleadment of a plaintiff or a defendant who ought to have been joined at the time of filing of the Dispute. That reference to the expression '*whose presence before the Court may be necessary*' appearing in Section 94(3)(c) of the Act must necessarily be to a person who otherwise qualifies in the list enumerated under Section 91(1)(a) to (e) or at the highest persons satisfying the requirement of Section 94(3)(a) of the MCS Act. That Section 94(3)(c) cannot override the non-obstante provision contained in Section 91(1) of the Act and cannot be resorted to enlarge the jurisdiction of Co-operative Court to bring within its purview strangers to the society.

8) Mr. Sharma further submits that Respondent No.4 is neither an agent for being covered under Section 91(1)(a) to (e) nor a person fitting into the description of Section 94(3)(a) of the Act. That Co-operative Court is constituted as a special forum with an objective of resolution of disputes directly affecting internal affairs or functioning of Co-operative Societies by a specialized forum familiar with such matters. That adopting interpretation of provisions of Section 94(3)(c) to rope within the ambit of jurisdiction of Co-operative Court total strangers would defeat the legislative object. That the legislature has not contemplated liberal interpretation of provisions of Section 94(3)(c) of the MCS Act. That impleadment of Respondent No.4 would cause severe prejudice to the Disputants and would enlarge the scope of the Dispute which would not be capable of being adjudicated by the Co-operative Court. Mr. Sharma invokes the maxim '*dura lex sed lex*' meaning '*law is hard but is the law*' and submits that even if a statutory provision causes hardship to some people, it is not for the Court to amend the law.

9) Mr. Sharma relies on judgment of the Apex Court in the case of **Margret Almeida & Ors. Versus. Bombay Catholic CHS Ltd. & Ors.**¹ and submits that the Apex Court has recognized the principle that it is permissible to segregate causes of action relating to challenges of resolution and causes of action relating to conveyance. That adopting the law enunciated in ***Margret Almeida***, the challenge to conveyance can be taken to Civil Court while maintaining a challenge to the Society's Resolutions before the Co-operative Court. He also relies on judgment of this Court in **Parimal Solanki (Applicant) in the matter of Bhoumik**

1 (2012) 5 SCC 642

CHS Ltd. & Ors. Versus. Vina A. Sisawala and Ors.². He also relies on judgment of this Court in **Komal Arvind Vesavkar & Ors. Versus. Vesawa Koli Sarvoday Sahakari Society Ltd. & Ors.**³ in support of his contention that anything apart from Resolution cannot be a subject matter of challenge before the Co-operative Court. On above submissions, Mr. Sharma would pray for setting aside the order passed by the Co-operative Court and the Co-operative Appellate Court.

10) Mr. Kanetkar, appearing for Respondent No.4, opposes the Petition. He submits that Respondent No.4 is correctly impleaded as a party opponent to the Dispute in view of the fact that the Petitioners have made serious allegation of collusion against Respondent No.4 in the Dispute. That the Dispute therefore cannot be decided without affording an opportunity of defence to Respondent No.4.

11) Mr. Kanetkar submits that Section 94(3)(c) of the MCS Act empowers the Co-operative Court to add any person with or without application, at any stage, whose presence before the Court is necessary in order to enable the Court to effectively and completely adjudicate upon all questions involved in Dispute. That power under Section 94(3)(c) of the MCS Act is therefore wide and the provision confers wider jurisdiction and discretion upon the Co-operative Court to add parties to Dispute. That provisions of Section 94(3)(c) of the MCS Act are akin to the provisions of Order 1 Rule 10 of the Code of Civil Procedure, 1908. That persons enumerated in Section 91 are different than the ones who can be joined under Section 94(3)(a) as well as under Section 94(3)(c) of

2 I.A. (L) No. 25993 of 2022 in Suit No. 1190 of 2019 decided on 6 October 2022

3 WP No. 8254 of 2022 decided on 15 January 2023

the MCS Act. That therefore the provisions of Section 94(3)(c) of the Act must be read to give its fullest meaning and interpretation and must be read independent of Sections 91(1) and 94(3)(a). To read Section 91(1) into Section 94(3)(c) would amount to introduction of something into Section 94(3)(c) which legislature did not intend.

12) Mr. Kanetkar submits that the judgment of the Apex Court in *Margret Almeida* does not deal with the issue as to who can be added or joined as necessary or proper parties to the Dispute before the Co-operative Court. That the judgment essentially deals with the issue of jurisdiction of Civil Court vis-a-vis Co-operative Court from the point of view of the subject matter of the Dispute, which is one of the tests for determining jurisdiction under Section 91. That therefore the judgment is not an authority or proposition of law on the issue as to who can be joined as parties to a Dispute before the Co-operative Court. He relies on judgment of this Court in *Ek Nath Namdev Lashkare & Ors. Versus. Pancharatna Properties & Ors.*⁴ in support of his contention that a developer who claims rights in the Development Agreement can be joined as a party to the Dispute before the Co-operative Court. That the judgment holds that the developer who claims rights in the Development Agreement is an agent and not an independent party unlike a purchaser in the case of *Margret Almeida*. By judgment of this Court in *Parimal Solanki* relied upon by the Petitioners again does not deal with the issue of joinder of necessary or proper parties and therefore the judgment has no application for deciding the issue involved in the present case. He prays for dismissal of the Petition.

13) Rival contentions urged on behalf of the parties now fall for my consideration.

14) Petitioners are the Disputants in Dispute No. 106 of 2021 filed before the Co-operative Court, Pune and are aggrieved by impleadment of Respondent No.4-Developer as a party opponent to the Dispute. Petitioners have challenged Special General Body Meeting Resolution dated 14 October 2018 and Managing Committee Resolution dated 20 October 2018. Petitioners contend that since only the resolutions adopted by the society are subject matter of challenge in the Dispute, Respondent No.4-Developer cannot be impleaded as party to the same. Petitioners have also contended that Respondent No.4 otherwise does not fit in the list of the persons enumerated in Section 91(1)(a) to (e) nor answers the requirement of Section 94(3)(a) or (c) of the MCS Act and that therefore he cannot be impleaded as party to the Dispute. In their Dispute, Petitioners have sought following prayers:

36. In view of the above, it is most respectfully prayed before this Hon'ble Court by the Disputants, as under

- a) The present Dispute may kindly be allowed.
- b) This Hon'ble Court be pleased to set quash and set aside the Impugned Resolution No. 01 passed by the Opponent Society on 14th October 2018 in the Special General Body Meeting.
- c) This Hon'ble Court be pleased to quash and set aside the Impugned Resolution No. 02 passed by the Managing Committee of the Opponent Society in the Managing Committee meeting held 20th October 2018.

d) This Hon'ble Court be pleased to pass necessary order of injunction restraining the Opponent Society from taking any action in terms of any such resolutions passed in said arbitrary and collusive Special General Body Meeting dated 14th October 2018.

e) Ex-parte ad-interim and ad-interim reliefs in terms of prayer clause (b) & (c) may kindly be passed.

f) Interim reliefs in terms of prayer clause (b) & (c) may kindly be passed.

g) Cost of the dispute be awarded to the Disputants.

h) Such further Orders as this Hon'ble Court shall deem fit in the interest of justice and equity may kindly be passed.

15) In their Dispute, Petitioners have impleaded the Society through its Chairman and Secretary as Opponent No. 1 and Mr. Rajiv Kumar Gupta and Mr. S. Subramanyan, Ex-Chairman and Ex-Secretary of the Society as Opponent Nos. 2 and 3 respectively. The Dispute thus is broadly confined to the internal working of the Society. As observed above, both the impugned resolutions dated 14 October 2018 and 20 October 2018 essentially relate to Society's entitlement in respect of the conveyance of the land. Mr. Sharma has contended that the impugned resolutions adopted by the Society thereby effecting compromise with Respondent No.4-developer has resulted in gross reduction of land entitlement of the Society about 96,196 sq.mtrs to only 69,222 sq.mtrs. Thus, the main grouse of the Petitioners, who appear to be the minority members and who could not convince the general body not to accept the compromise proposal, in society agreeing for conveyance of lesser area than its alleged entitlement. Considering the narrow issue involved in

the present Petition, it is not necessary to delve deeper into the factual and legal controversy involved in the Dispute.

16) For deciding the issue of impleadment of Respondent No.4-developer as party opponent to the Dispute, it would be necessary to make reference to the provisions of Section 91 of the MCS Act, which deals with the issue of adjudication of Disputes touching the constitution, conduct of general meetings, business or management of the Society. Section 91 of the MCS Act provides thus:

91. Disputes.—

(1) Notwithstanding [anything contained] in any other law for the time being in force, any dispute touching the constitution, [election of the committee or its officers] [* *] conduct of general meetings, management or business of a society shall be referred by any of the parties to the dispute, or by a federal society to which the society is affiliated, or by a creditor of the society, [to a Co-operative Court], if both the parties thereto are one or other of the following :

(a) a society, its committee, any past committee, any past or present officer, any past or present agent, any past or present servant or nominee, heir or legal representative of any deceased officer, deceased agent or deceased servant of the society, or the Liquidator of the society [or the Official Assignee of a de-registered society] ;

(b) a member, past member or a person claiming through a member, past member or a deceased member of a society, or a society which is a member of the society [or person who claims to be a member of the society] ;

[(c) a person other than a member of the society, with whom the society has any transactions in respect of which any restrictions or regulations have been imposed, made or prescribed under section 43, 44 or 45, and any person claiming through such person ;

(d) a surety of a member, past member or deceased member, or surety of a person other than a member with whom the society has any transactions in respect of which restriction have been prescribed under

section 45, whether such surety or person is or is not a member of the society] ;

(e) any other society, or the Liquidator of such a society [or deregistered society or the Official Assignee of such a de-registered society]:

[Provided that, an industrial dispute as defined in clause (k) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), or rejection of nomination paper at the election to a committee of any society [* *] or refusal of admission to membership by a society to any person qualified therefor, 12[or any proceeding for the recovery of the amount as arrear of land revenue on a certificate granted by the Registrar under sub-section (1) or (2) of section 101 or sub-section (1) of section 137 or the recovery proceeding of the Registrar or any officer subordinate to him or an officer of society notified by the State Government, who is empowered by the Registrar under sub-section (1) of section 156,] 1 [or any orders, decisions, awards and actions of the Registrar against which an appeal under section 152 or 152A and revision under section 154 of the Act have been provided,] shall not be deemed to be a dispute for the purposes of this section.]

[* * * * *]

(3) Save as otherwise provided under 3 [sub-section (2) of section 93], no Court shall have jurisdiction to entertain any suit or other proceeding in respect of any dispute referred to in sub-section (1).

Explanation 1.— A dispute between the Liquidator of a society [or an Official Assignee of a deregistered society] and [the members (including past members, or nominees, heir or legal representative of deceased members)] of the same society shall not be referred [to the Co-operative Court] under the provisions of sub-section (1).

Explanation 2.— For the purposes of this sub-section, a dispute shall include—

(i) a claim by or against a society for any debt or demand due to it from a member or due from it to a member, past members or the nominee, heir or legal representative of a deceased member, or servant for employee whether such a debt or demand be admitted or not ;

(ii) a claim by a surety for any sum or demand due to him from the principal borrower in respect of a loan by a society and recovered from the surety owing to the default of the principal borrower, whether such a sum or demand be admitted or not ;

(iii) a claim by a society for any loss caused to it by a member, past member or deceased member, by any officer, past officer or deceased officer, by any agent, past agent or deceased agent, or by any servant, past servant or deceased servant, or by its committee, past or present, whether such loss be admitted or not ;

(iv) a refusal or failure by a member, past member or a nominee, heir or legal representative of a deceased member, to deliver possession to a society of land or any other asset resumed by it for breach of conditions of the assignment.

17) Section 91 of the M.C.S. Act opens with a non-obstante clause and confers jurisdiction on Co-operative Courts in respect of the enumerated disputes. Sub-section (1) of Section 91 is in two parts. The first part of the sub-section enumerates the subject matter of disputes over which Co-operative Court can exercise jurisdiction. The second part of sub-section (1) enumerates the parties who can be impleaded to the Dispute. Thus, a Dispute would lie before a Co-operative Court only if the subject matter falls in the list enumerated in the first part and if both the parties fall in any of the categories enumerated in the second part. So far as Dispute filed by the Petitioners is concerned, the same answers both the requirements and the debate between the parties is not about maintainability of the Dispute. The issue here is whether Respondent No.4 can be impleaded to that Dispute as a party Opponent.

18) As observed above, though Co-operative Court is vested with jurisdiction to decide the enumerated subject matters in first part of sub-section (1) of Section 91, it cannot exercise jurisdiction over every person even *qua* those subject matters. Exercise of jurisdiction by Co-operative Court over subject matters enumerated in the first part of Section 91(1) is further circumscribed by providing that exercise of jurisdiction cannot

exceed the category of persons enumerated in Clauses (a) to (e) of Section 91(1). The provision is thus peculiar and controls both the 'subject matter' of dispute as well as 'persons' over whom jurisdiction can be exercised. If any of the two requirements in the first and second part of Section 91(1) are not satisfied, the Co-operative Court would lose its jurisdiction. To paraphrase, even if a subject matter falling in the list enumerated in the first part of Section 91(1) is brought before the Co-operative Court but one of the parties does not answer the description under clauses (a) to (e) of Section 91(1), the Co-operative Court would not have jurisdiction to decide even that subject matter.

19) It is on account of these peculiar provisions of Section 91(1) that Mr. Sharma has strenuously contended that impleadment of Respondent No.4 to the Dispute would take the Dispute out of jurisdiction of the Co-operative Court. He has contended that Respondent No.4 admittedly does not fall in the list enumerated in clauses (a) to (e) of Section 91(1) of the MCS Act. This position is also not seriously disputed by Mr. Kanetkar. Thus, parties are *ad-idem* that Respondent No.4 does not fall in clauses (a) to (e) of Section 91(1) of the MCS Act.

20) Faced with the situation that Respondent No.4 is not one of the persons enumerated in Section 91(1)(a) to (e), the Co-operative Court has taken recourse to the provisions of Section 94 of the MCS Act for ordering impleadment of Respondent No.4. Section 94 prescribes procedure for settlement of Disputes and power of Co-operative Courts and provides thus :

94. Procedure for settlement of disputes and power of Co-operative Court.—

(1) The Co-operative Court, hearing a dispute under the last preceding section, shall hear the dispute in the manner prescribed, and shall have power to summon and enforce attendance of witnesses including the parties interested or any of them and to compel them to give evidence on oath, affirmation or affidavit, and to compel the production of documents by the same means and as far as possible in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908 (V of 1908).

(1A) Save as otherwise provided in this Act, every dispute in relation to any election shall be heard and decided by the Co-operative Court as expeditiously as possible and endeavour shall be made to conclude the hearing and decision within six months from the date on which the dispute is filed before it.

(2) Except with the permission of the Co-operative Court no party shall be represented at the hearing of a dispute by a legal practitioner.

(3) (a) If the Co-operative Court is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is a party to a dispute, it may order, that the person who has acquired the interest in the property may join as a party to the dispute ; and any decision that may be passed on the reference by the Co-operative Court shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.

(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Co-operative Court may, at any stage of the hearing of the dispute, if satisfied that the mistake was bona fide, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as it thinks just.

(c) The Co-operative Court may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Co-operative Court, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before [the Co-operative Court], may be necessary in order to enable the Co-operative Court effectually and

completely to adjudicate upon and settle all the questions involved in the dispute, be added.

(d) Any person who is a party to the dispute and entitled to more than one relief in respect of the same cause of action may claim all or any of such reliefs; but if he omits to claim for all such reliefs, he shall not forward a claim for any relief so omitted, except with the leave of the Co-operative Court.

(3A) If the disputant is present and the opponent is absent, when the dispute is called out for hearing, the Co-operative Court may decide the dispute ex-parte, and pass an award. The Co-operative Court, may set aside the ex-parte, award upon such terms as to the payment of costs, to the court or otherwise as it thinks fit, if the opponent makes an application within thirty days from the date of the award, and satisfies the court that there was sufficient cause for his failure to appear, when the dispute was called out for hearing and appoint a day for hearing and deciding the dispute on merits.

(3B) If the opponent is present and the disputant is absent, when the matter is called out for hearing, the Co-operative Court may dismiss the dispute for default, and pass an award accordingly. The Co-operative Court may restore the dispute which is dismissed for default and restore the same, upon such terms as to the payment of costs, as it thinks fit, if the disputant makes an application within thirty days from the date of its dismissal, and satisfies the court that there was sufficient cause for his failure to appear, when the dispute was called for hearing and appoint a day for hearing and deciding the dispute on merits.

(4) Save as otherwise directed by the State Government in any case or class of cases, every dispute shall be decided in such summary manner as may be prescribed and as expeditiously as possible.

(emphasis added)

21) Sub-section (3) of Section 94 confers power on the Co-operative Court to add or strike off parties. The power to add or strike off parties is to be exercised by the Co-operative Court in three distinct circumstances enumerated in Clauses (a) to (c) of Section 94(3). Under Section 94(3)(a), a Co-operative Court can direct impleadment of a person who has acquired interest in the property of a person who is a party to the Dispute. Thus, Section 94(3)(a) restricts power of the Co-

operative Court only to join that person, who acquires interest in the property of a person who is party to the Dispute. In *Margret Almeida* (supra) the Apex Court has interpreted clause (a) of Section 94(3) to mean that the power of impleadment can be exercised only when such acquisition of interest takes place during pendency of the Dispute. Section 94(3)(b) deals with a situation where Dispute is instituted in the name of a wrong person or where all the Defendants are not included and in such a case, Co-operative Court can direct addition or substitution of Plaintiff or Defendant. Section 94(3)(c) confers wider power on the Co-operative Court to strike off a wrong Plaintiff/Defendant or to add any person as Plaintiff or Defendant whose presence is considered necessary for effective and complete adjudication of settlement of questions involved in the Dispute.

22) The Co-operative Court has referred to the provisions of Section 94(3)(c) of the MCS Act for directing impleadment of Respondent No.4 to the dispute holding that he is a proper party to the dispute and that his presence is necessary for settlement of all questions involved in the Dispute.

23) Mr. Sharma has contended that the provisions of Section 94(3)(c) cannot be interpreted to mean conferment of unbridled power on the Co-operative Court to implead a person to the Dispute who does not answer the description under Section 91(1)(a) to (e) or Section 94(3)(a). I am unable to agree. In fact, Section 94(3)(c) empowers the Court to implead a person as a party to the Dispute who is not included in categories enumerated in Section 91(1)(a) to (e) or who does not answer

the requirement of Section 94(3)(a). Careful reading of the language of Clause-(c) of sub-section (3) of Section 94 would indicate that the provision is meant to confer a wider discretion on the Co-operative Court to bring before it any party whose presence is considered necessary to assist the Court in effective adjudication of particular question involved in the Dispute. Mr. Sharma is not right in submitting that Section 94(3)(c) refers to only persons enumerated in Section 91(1)(a) to (e). This is clear from the fact that the said power is already recognised in Section 94(3)(b) of the Act. To illustrate, if Co-operative Court forms an opinion that an office bearer of the Society ought to be joined as party to the Dispute, the power under Section 94(3)(c) can be exercised and in that situation, office bearer of the Society is a person enumerated under Section 91(1)(a) of the MCS Act. However, Clause (c) of Section 94(3) is not intended by the Legislature to confer power upon Co-operative Court of impleadment of only those persons who are enumerated in Section 91(1)(a) to (e). This is because it uses the expression '*the name of any person....*' whose presence before the Co-operative Court is necessary to enable the Co-operative Court to effectively and completely adjudicate upon and settle all questions involved in the dispute.

24) Also, if a comparative analysis of the clauses (a) to (c) of Section 94(3) is made, following position emerges:

<p>(a) If the Co-operative Court is satisfied that a person, whether he be a member of the society or not, has acquired any interest in the property of a person who is a party to a dispute, it may order, that the person who has acquired the interest in the property may join as a party to the dispute ;</p>	<p>Purchaser <i>pendente lite</i> who is not enumerated in Section 91(1)(a) to (e) can be impleaded so as to bind him/her with the decision in Dispute.</p>
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and any decision that may be passed on the reference by the Co-operative Court shall be binding on the party so joined, in the same manner as if he were an original party to the dispute.	
(b) Where a dispute has been instituted in the name of the wrong person, or where all the defendants have not been included, the Co-operative Court may, at any stage of the hearing of the dispute, if satisfied that the mistake was bona fide, order any other person to be substituted or added as a plaintiff or a defendant, upon such terms as it thinks just.	Only person enumerated in Section 91(1)(a) to (e) can be impleaded as the clause applies in case of a mistake in not impleading such enumerated persons as Plaintiff or Defendant.
(c) The Co-operative Court may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Co-operative Court, to be just, order that the name of any party improperly joined whether as plaintiff or defendant, be struck out, and the name of any person who ought to have been joined whether as plaintiff or defendant or whose presence before the Co-operative Court, may be necessary in order to enable the Co-operative Court effectually and completely to adjudicate upon and settle all the questions involved in the dispute, be added.	Both persons enumerated and not enumerated in Section 91(1)(a) to (e) can be directed to be joined as parties.

25) As can be seen from the language employed in clause (c) of Section 94(3), the provision encompasses within its ambit two category of persons viz. (i) the name of any person who ought to have been joined whether as plaintiff or defendant and (ii) the name of any person whose presence before the Co-operative Court is considered necessary. This is on account of use of the words 'or' in Section 94(3)(c). Thus, someone who ought not be joined as Plaintiff or Defendant can also be directed to be joined by the Co-operative Court. The person the first category viz. '*who ought to have been joined whether as plaintiff or defendant*' would necessarily mean one of the persons falling in clauses (a) to (e) of Section 91(1). However, the person in the second category viz. '*whose*

presence before the Co-operative Court may be necessary' need not answer the description under clauses (a) to (e) of Section 91(1).

26) Faced with the situation that Section 94(3)(c) seeks to include within its ambit even persons other than those enumerated under Section 91(1)(a) to (e), Mr. Sharma has suggested that the expression '*any person*' used under Section 94(3)(c) must necessarily have reference to the person who answers the description under Section 94(3)(a). In other words, Mr. Sharma has contended that in addition to having power to implead persons enumerated under Section 91(1)(a) to (e), the Co-operative Court can only direct addition of person who has acquired an interest in the property *pendente-lite* the Dispute. Here again, I am unable to agree with the submission of Mr. Sharma. If the intention of the Legislature was to restrict the powers of impleadment to only the *pendente-lite* purchaser, there was no necessity of using the expression '*the name of any person whose presence before the Co-operative Court made be necessary to enable the Co-operative Court to effectively and completely adjudicate upon and settle all questions involved in the dispute*' in Section 94(3)(c). This is because the power of impleadment of *pendente-lite* purchaser is already conferred under Section 94(3)(a) on the Co-operative Court and it was unnecessary to recognise that power once again in Section 94(3)(c). This effectively means that the expression '*any person*' used in Section 94(3)(c) is necessarily a person otherwise than a *pendente-lite* purchaser.

27) Court must attempt to make plain reading of a statutory provision if the language is clear and unambiguous and if it's plain

reading bears out the exact meaning of the provision. It is not for the Courts to read into the statute something which the Legislature did not intend. Sections 94(3)(a) and 94(3)(c) clearly operate in different fields and are intended to cater to different situations. Therefore, Courts cannot give narrow or restrictive meaning to language used in Section 94(3)(c) so as to circumscribe power of impleadment conferred on a Co-operative Court to only such persons who are enumerated under Section 91(1)(a) to (e) or only a *pendente-lite* purchaser.

28) Provisions of Section 91(1) seek to restrict jurisdiction of a Co-operative Court only to enumerated subject matters and only in respect of the enumerated persons. Provisions of Section 91(1) are thus aimed at restricting adjudicatory power of Co-operative Court in respect of subject matters and persons. On the other hand, provisions of Section 94(3)(c) are intended at an altogether different objective. The person who can be impleaded under Section 94(3)(c) is not necessarily a person whose right is adjudicated by the Co-operative Court. Section 94(3)(c) would include a person whose right will not be adjudicated by the Co-operative Court but whose presence is felt necessary for effective adjudication of the Dispute. To illustrate, in a given circumstance, the Co-operative Court may require presence of a municipal corporation, a statutory authority, a lessor of land, etc. for effective adjudication of disputes before it, though those entities may not answer the description of Section 91(1)(a) to (e) or Section 94(3)(a). By impleading such entities, Co-operative Court may not adjudicate dispute between a party already in dispute and the impleaded party. However, presence of the impleaded party becomes necessary for effective adjudication of

questions involved in the dispute. Thus by impleading the enumerated parties under Section 91(1)(a) to (e) or Section 94(3)(a), the Co-operative Court makes adjudication of rights *qua* them whereas the impleadment under Section 94(3)(c) can be of such person whose presence is felt necessary without adjudication of rights or liabilities of that person.

29) In view of the above discussion, I am unable to accept the submission made on behalf of the Petitioners that Section 94(3)(c) refers to only those persons who are enumerated in Section 91(1)(a) to (e) or a person who answers the description under Section 94(3)(a) of the MCS Act.

30) Mr. Sharma has strenuously relied on judgment of the Apex Court in *Margret Almeida* and has contended that the Co-operative Court, as well as the Co-operative Appellate Court, have grossly misread the ratio of the said judgment in favour of Respondent No.4. He contends that *Margret Almeida* recognizes segregation of disputes relating to general body resolutions and disputes relating to conveyance. He has laid emphasis on the observations made by the Apex Court in paras-46 and 47 of the judgment, which read thus:

46. We do not propose to examine the correctness of the legal premise that the general body resolution and the conveyance could be segregated in a dispute such as one on the hand. For the sake of argument, we presume that it is possible for the plaintiffs, the appellants herein, to challenge only the general body resolution. We also presume that the conclusion arrived at by the High Court that if the general body resolution is set aside, the same will impair the validity of the conveyance even without an appropriate declaration by a competent judicial body. (We emphasise that we only presume so without examining the said conclusion for the limited purpose.)

47. If the resolution dated 6-12-2009 alone is challenged before the Cooperative Court, in view of our conclusion recorded earlier, Respondents 22 and 23 (the beneficiaries of the resolution) could not be made parties before the Cooperative Court. In such a situation, even if the Cooperative Court came to the conclusion that the resolution is illegal, it would always be open for Respondents 22 and 23 to ignore such a determination as they are not parties to the proceedings and assert their title on the basis of the conveyance dated 7-12-2009. If any party such as the plaintiffs (the appellants herein) disputes the validity of the title conveyed thereunder, necessarily such a dispute would have to be adjudicated by a competent court under Section 9 of the Code of Civil Procedure wherein, necessarily, the question whether a valid title was conveyed in favour of Respondents 22 and 23 by the society would arise for determination. The legality of the resolution would still have to be gone into again. Therefore, in our opinion, the premise in which the High Court commenced its enquiry itself is wrong.

31) It appears that in para-47 of the judgment in *Margret Almeida*, the Apex Court had considered a hypothetical situation, where general body resolution alone is challenged before the Co-operative Court without raising a challenge to the conveyance. However factually both resolutions as well as conveyance were challenged before civil court in *Margret Almeida*. Therefore, the observations in paras-46 and 47 of the judgment refer to a mere hypothetical situation which was not involved in the case before the Apex Court. The issue before the Apex Court was entirely different, it related to jurisdiction of a civil court to maintain a composite challenge to society resolution and conveyance. In *Margret Almeida*, the Society had adopted a Resolution to sell land in favour of Respondent Nos. 22 and 23 (*purchasers*) and in furtherance of the said Resolution, the sale deed/conveyance was executed. Two Suits were instituted in this Court challenging both the Resolution, as well as the Deed of Conveyance. Jurisdiction of this Court to try and entertain

the Suits was questioned by the defendants therein by referring to the provisions of Section 91 of the MCS Act. Therefore, the issue before the Apex Court was whether Civil Court had jurisdiction to decide a Suit involving a composite challenge to General Body Resolution adopted by the Society, as well as the Deed of Conveyance executed in pursuance of that resolution. The Apex Court upheld the jurisdiction of this Court to try and entertain the suit.

32) Thus, in *Margret Almeida* the issue involved before the Apex Court was in respect of subject matter over which only Co-operative Court can have exclusive jurisdiction. The Apex Court has answered that issue holding that since conveyance was also challenged, the dispute would not lie in jurisdiction of Co-operative Court and that the Civil Court had jurisdiction to decide the composite challenge to the Resolution and conveyance. The issue before the Apex Court was not about impleadment of any party. Therefore, the observations made by the Apex Court in paras-46 and 47 of the judgment cannot be quoted out of context to mean as if it is impermissible to add to a Dispute any party other than the one enumerated under Section 91(1)(a) to (e) or 94(3)(a) when challenge is restricted only to resolutions adopted by the Society. It is well settled principle that judgment is an authority for what it decides and not what can be logically deduced therefrom. [SEE: *Commissioner Of Customs (Port), Chennai Versus. Toyota Kirloskar Motor Pvt. Ltd.*⁵ and *Secunderabad Club and Others Versus. CIT-V and Another*⁶]. Therefore the judgment of the Apex Court in *Margret*

5 2007(5) SCC 371

6 2024 (18) SCC 310

Almeida is not an authority on the proposition that once challenge is restricted to only resolution (without challenging the conveyance), only persons enumerated in Section 91(1)(a) to (e) can be impleaded to the Dispute. In my view therefore the judgment of the Apex Court in *Margret Almeida* provides little assistance for deciding the issue involved in the present case.

33) Mr. Sharma has also relied upon judgment of this Court in *Parimal H. Solanki* which makes reference to the judgment of the Apex Court in *Margret Almeida* and holds in para-63 of the judgment as under :

63. This Court in Maya Developers (supra) has considered the decision of the Supreme Court in Margret Almeida (supra). In Margret Almeida (supra) the Supreme Court has referred to the Sections 43, 44 and 45 and in that context held that where Section 91(1)(c) speaks of persons other than the members of the Society, it is actually referring to persons other than the members of the Society, who have deposited money with the Society or who have either lent or borrowed the money from the Society in accordance with the provisions of Sections 43 and 44 and subject to such restrictions and limitations as if any prescribed with reference to such lending or borrowing from to the Society. **Thus, the persons other than the members of the Society has been narrowly defined and in my view, will not include the Plaintiff No. 2-Developer, apart from the fact that there are no specific restrictions and regulations as envisaged under Section 45 of MCS Act for making Section 91(1)(c) applicable.**

(emphasis added)

34) Mr. Sharma has laid emphasis on the above emphasized observations in para-63 of the judgment in *Parimal H. Solanki* in support of his contention that persons other than the members of Society are narrowly defined and that therefore a developer cannot be included in Section 91(1)(c) of the MCS Act. Again, in *Parimal H.*

Solanki, the issue before this Court was about jurisdiction of Civil Court *vis-a-vis* Co-operative Court and the judgment provides little assistance for deciding the issue of impleadment of a party involved in the present case. The observations made in para-63 of the judgment cannot be read to mean as if the Co-operative Court does not have power to implead persons other than those notified in Section 91(1)(a) to (e) as parties to the Dispute.

35) Mr. Sharma has also relied upon judgment of this Court in **Komal Arvind Vesavkar** in which again the issue before this Court was about jurisdiction of Co-operative Court to entertain challenge to the Development Agreement. After referring to the judgment of the Apex Court in **Margret Almeida**, this Court has held that the Dispute involving challenge to a Development Agreement would not fall under Section 91 of the MCS Act. The judgment cannot be read to mean as if a developer cannot be joined as a party to a Dispute involving a challenge only to the Resolutions adopted by the Society. If impleadment of Respondent No.4-developer was aimed at bringing in the net challenge to the conveyance, reliance on judgment in **Komal Arvind Vesavkar** would have been relevant and this Court would not have permitted his impleadment which would have thrown the Dispute out of jurisdiction of the Co-operative Court.

36) Mr. Kanetkar has relied on judgment of this Court in **Eknath Namdev Lashkare** in support of his contention that a developer can also be joined as a party to the Dispute filed under Section 91(1) of the MCS Act. In my view, however the judgment in **Eknath Namdev Lashkare**

again deals with the issue of jurisdiction of Co-operative Court under Section 91 *vis-a-vis* subject matter. The issue involved before this Court was in respect of jurisdiction of the Civil Court versus the jurisdiction of the Co-operative Court, where in a Dispute filed before the Co-operative Court, while challenging the resolution, a declaration was also sought that the development agreement and power of attorney executed in favour of a developer were null and void. This Court applied the principle of agency and held that the developer answered the description of the word '*agent*' used under Section 91(1)(a) of the MCS Act and that therefore Co-operative Court would have jurisdiction to try and entertain the dispute involving even challenge to the Development Agreement. The judgment thus does not deal with the issue of Co-operative Court's power to implead parties to a Dispute under Section 94(3)(c) of the MCS Act. As observed above, there is no challenge to the conveyance and mere impleadment of Respondent No.4 would not raise the issue of jurisdiction of Co-operative Court to try the dispute.

37) Thus, none of the judgments relied upon by rival parties provide any answer to the issue involved in the present case. However, as observed above, plain reading of provisions of Section 94(3)(c) provides a clear answer to the issue involved in the present case.

38) Conspectus of the above discussion is that since Co-operative Court is a specialised forum for resolution of disputes relating to the internal working of societies, ordinarily no dispute concerning third-parties, who are not the enumerated entities under Section 91(1)(a) to (e) or who do not answer description under Section 94(3)(a) of the

MCS Act, can be adjudicated by that Court. It is only when a Co-operative Court considers that presence of a person falling beyond the enumerated list under Section 91(1)(a) to (e) or a *pendente lite* purchaser is necessary for effective adjudication of the Dispute that such person can be added as party to the Dispute. However the impleadment granted under Section 94(3)(c) of the Act is not for adjudication of rights between the parties to the Dispute and the impleaded person. The impleadment is only for effective decision of the questions involved in the Dispute. While upholding powers of a Co-operative Court to direct impleadment of a person other than those enumerated in Section 91(a) to (e) or 94(3)(a) of the Act, this Court would add a word of caution that the power under Section 94(3)(c) though wide, is not unbridled. Under the guise of exercise of power under Section 94(3)(c), the Co-operative Court cannot bring within the scope of the dispute the subject matters which are incapable of being adjudicated under Section 91. The power under Section 94(3)(c) needs to be used sparingly when presence of a person is felt necessary for effective adjudication of the dispute. Impleadment under Section 94(3)(c) must be refused where such impleadment may result in throwing the dispute out of jurisdiction of the Co-operative Court. The provisions of Section 94(3)(c) is not a window for entry of persons in the pending dispute who would ultimately open the exit door of Co-operative Court for ensuring that the dispute is thrown out of jurisdiction.

39) In the present case, Petitioners have leveled serious allegations against Respondent No.4 of colliding with the Society. They have alleged that the impugned Resolutions are adopted by the Society

at the behest of Respondent No.4. In that view of the matter, the Co-operative Court and Co-operative Appellate Court have considered it necessary to have the presence of Respondent No.4 for effective adjudication of the dispute. It is not that the Co-operative Court is going to adjudicate any rights between the Petitioners and Respondent No.4 in the Dispute. Impleadment of Respondent No.4 as party opponent to the Dispute is neither aimed at nor would result in adjudication of issue relating to validity of conveyance. The nature of Dispute would continue to be a plain vanilla challenge to the Resolution even after impleadment of Respondent No.4.

40) The apprehension expressed by Mr. Sharma that impleadment of Respondent No.4 may throw the Dispute out of jurisdiction of Co-operative Court is misplaced. As observed above, impleadment of Respondent No.4 is not for the purpose of adjudication of any relief in favour of or against Respondent No.4. Co-operative Court has thought it appropriate to implead Respondent No.4 only for the purpose of effective adjudication of the Dispute. It is not even the case of Respondent No.4 that since he is not one of the persons enumerated in the list under Section 91(1)(a) to (e), the Co-operative Court does not have jurisdiction over subject matter involved in the dispute. Respondent No.4 has not sought his impleadment for the purpose of taking the Dispute outside the jurisdiction of the Co-operative Court.

41) In view of the above discussion, I do not find any infirmity in the orders passed by the Co-operative Court, as upheld by the Co-operative Appellate Court. The impugned orders appear, to my mind, to

be unexceptional. The Writ Petition is devoid of merits. It is accordingly **dismissed** with no order as to cost.

[SANDEEP V. MARNE , J.]

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