



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2241 OF 2024

Ashwini Heights Cooperative Housing
Society Ltd.

...Petitioner

V/s.

1. Jyoti Nitin Lunia
2. Nitin Balchandji Lunia
3. Deputy Registrar, Co-operative
Societies, Pune City (2)
4. Divisional Joint Registrar, Co-
operative Societies, Pune
Division, Pune.

...Respondents

Mr. Akshay Kandarkar with *Mr. Vignesh Ashokan i/b. Mr. Sachin H. Deokar for the Petitioner.*

Mr. Rahul Soman with *Mr. Suyash M. More i/b. Mr. Vidyesh Dhamdhare for Respondent nos.1 and 2.*

Mr. Y.D. Patil, *AGP for Respondent-State.*

CORAM: SANDEEP V. MARNE, J.

Judgment reserved on: 14 AUGUST 2026.

Judgment pronounced on: 20 AUGUST 2026.

JUDGMENT:

- 1) By this Petition, Petitioner-Society has challenged the Order dated 12 May 2022 passed by the Divisional Joint Registrar, Cooperative Societies, Pune Division, Pune (**Divisional Joint Registrar**), allowing Revision Application No. 126 of 2020 and setting aside order dated 6

March 2019 passed by the Deputy Registrar, Co-operative Societies, Pune City-2, Pune (**Deputy Registrar**). By his order dated 6 March 2019, the Deputy Registrar had rejected the application preferred by Respondent No.1 and 2 under Section 23(2) of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**) for admitting them as members of the Petitioner-Society. Thus, the effect of the impugned order of the Divisional Joint Registrar is that Respondent Nos.1 and 2 are directed to be admitted as members of the Petitioner-Society *qua* the godown purchased by them.

2) The Petitioner is a Cooperative Housing Society registered under the provisions of the MCS Act. Building of the Petitioner-Society was developed by M/s Ashwini Constructions. Before formation of the Petitioner-Society, the developer sold shop No.8 and godown situated in the basement of the building to Mr. Prakash Balkrishna Daphalapurkar (**Daphalapurkar**) by way of single registered agreement. After formation of the Society, the Petitioner-Society issued share certificate No.45 in the name of Daphalapurkar in respect of shop No.8 and the godown beneath it. Daphalapurkar sold only the godown to Mr. Ramchandra Maruti Bandal and Savita Bandal (**Bandals**) by Assignment Deed dated 18 August 2005 without informing the Petitioner-Society and without securing its No Objection Certificate. Therefore Bandals were not admitted as member of the Petitioner-Society. By Deed of Assignment /Transfer Deed dated 1 April 2010, Bandals sold the godown to Respondent Nos.1 and 2 again without securing NOC of the Society. Respondent Nos.1 and 2 applied to the Society for securing membership on 30 September 2013. The Society requested for certain documents vide letter dated 8 October 2013. Respondent Nos.1 and 2 again made application dated 4 February

2017 for grant of membership. Thereafter Respondent Nos.1 and 2 sent Advocate's notice dated 4 January 2018 to the Petitioner-Society for grant of membership. The Society responded through its Advocate's reply dated 17 February 2018 informing that Daphalapurkar has not surrendered his membership/ share certificate and that therefore Respondent Nos.1 and 2 could not be admitted as members.

3) Respondent Nos.1 and 2 filed Appeal under Section 23(2) of the MCS Act before the Deputy Registrar seeking membership of the Society *qua* godown. The Appeal was resisted by the Petitioner-Society by filing its reply. The Deputy Registrar rejected the Appeal by order dated 6 March 2019 holding that purchase of godown was made by Bandals without Society's consent and similarly even purchase of godown by Respondent Nos.1 and 2 was without consent of the Society. Aggrieved by the order dated 6 March 2019 passed by the Deputy Registrar, Respondent Nos.1 and 2 filed Revision Application No.126 of 2020 before the Divisional Joint Registrar. By order dated 12 May 2022, the Divisional Joint Registrar has allowed the Revision preferred by Respondent Nos.1 and 2 and has set aside order of the Deputy Registrar dated 6 March 2019. The Society is directed to grant membership to Respondent Nos.1 and 2 *qua* the godown. The Petitioner-Society has filed the present Petition challenging the order of the Divisional Joint Registrar dated 12 May 2022. By order dated 21 February 2024, this Court has stayed the order of the Divisional Joint Registrar. Respondent Nos.1 and 2 have appeared in the Petition.

4) Mr. Kandarkar, the learned counsel appearing for the Petitioner-Society submits that the Divisional Joint Registrar has grossly erred in

allowing the Revision preferred by Respondent Nos.1 and 2. That what is purchased by Respondent Nos.1 and 2 does not qualify as a 'flat' within the meaning of Section 154B-1(13) of the MCS Act. That godown is a part and parcel of shop No.8. That Daphalapurkar had purchased shop No.8 and godown as a composite unit. That in the sanctioned plan also, both the structures are indicated as a composite unit. That there is no independent access for the godown and the that the godown can be accessed only through the shop.

5) Mr. Kandarkar further submits that under the statutory scheme of MCS Act, membership cannot be granted unless the flat is approved in the sanctioned plan. That under Section 154B-5 of the MCS Act, there is a statutory restriction to number of membership, which could not exceed the sanctioned plan. He submits that Respondent Nos.1 and 2 have procured illegal documents in the form of personal occupation certificate. That there is no provision for issuance of personal occupation certificate. That in any case, changes to sanctioned plan cannot be effected without consent of the Society. That the so called occupation certificate procured by Respondent Nos.1 and 2 are doubtful since occupation certificate is shown to have been issued on 10 March 2021 whereas the revised commencement certificate is sought later on 6 July 2021. That it is impermissible to directly take into consideration the material, which was never produced before the Deputy Registrar. In support, he relies on judgment of this Court in ***Usha Kiran Cooperative Housing Society & And Ors . V/s. The State of Maharashtra & Ors.***¹ He also relies on judgment of this Court in ***Uday Dalal and Others V/s. Divisional Joint Registrar***² in support of his contention that only the flat

1 Writ Petition No.15438 of 2025, decided on 18 November 2025.

2 2025 SCC OnLine Bom 5202

which is reflected in the sanctioned plan can be taken into consideration for award of membership. He submits that the godown has not been sanctioned independently in the sanctioned plan. That Daphalapurkar still continues to be the member of the Society *qua* the entire structure. He also invites attention of this Court to bye-law No.46 in support of his contention that no additions or alterations in the plans or structures can be made without the consent of the Society. He also submits that transaction of Respondent Nos.1 and 2 is clearly illegal due to absence of NOC from the Society. He accordingly prays for setting aside order of the Divisional Joint Registrar.

6) *Per contra*, Mr. Soman, the learned counsel appearing for Respondent Nos.1 and 2 opposes the Petition submitting that the Divisional Joint Registrar has taken into consideration the occupation certificate in respect of the godown thereby indicating that the godown is sanctioned as a separate unit. That the godown is also separately assessed to taxes. That under Section 154B-1(13) the definition of the term 'Flat' has now been widened and even 'godown' is included in the definition of the term 'Flat'. That Daphalapurkar purchased the shop and the godown and just because purchase was made by one document, the same does not mean that there is a unified structure. That there is an independent access to the godown. He submits that statutory scheme relating to cooperative housing society is entirely different in relation to acquisition of interest in the property under Section 154B-7 as compared to Section 29 of the MCS Act. He also relies on judgment of this Court in *Uday Dalal* (supra). He submits that in the original structure plan godown was indicated as a separate structure. He therefore prays for dismissal of the Petition.

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

8) The case involves a unique conundrum where Daphalapurkar purchased from the developer shop No.8 and the godown vide Agreement dated 6 August 1994. The Agreement effects purchase of following property:-

Shop No.8 on Ground Floor admeasuring about 17.84 sq.mtrs i.e. 192.0 sq.ft. of built-up area and godown in basement of about 25.27 sq.mtrs. i.e. 272.09 sq.ft. of built-up area.

9) Thus, by a common Agreement, Shop No.8 on the ground floor admeasuring 192 sq.ft. and the Godown admeasuring 272.09 sq.ft. were purchased by Daphalapurkar. It appears that since a single owner purchased both the structures and since the Society believes that godown is a part of shop No.8 it issued only share certificate in favour of Daphalapurkar. Daphalapurkar retained shop No.8 but decided to sell only the godown and accordingly executed a Deed of Assignment on 18 August 2005 with Bandals and thereby sold only the godown. In clause 12 of the Deed of the Assignment, Daphalapurkar gave an undertaking as under:-

सदर गोडाउन मिळकत ज्या इमारतीचा भाग आहे त्या इमारतीमधील फ्लॅट धारकांची सहकारी संस्था स्थापन झालेली असून सदर सोसाटीचे नाव अश्विनी हार्ड्ट्स सहकारी गृहरचना संस्था मर्यादित' असे आहे. प्रस्तुतच्या तबदिलपत्रानंतर मी सदर संस्थेतील सभासदत्वाचा राजीनामा देऊन सभासदत्व व शेअर्स सर्टिफिकेट तुमचे नावे हस्तांतरित करून देईन. त्याबाबत टाळाटाळ करणार नाही. त्यासाठी लागणाऱ्या सर्व सहा , संमत्या मी विनामोबदला देण्याच्या आहेत.

10) It is the contention of the Society that its consent was not secured for execution of the transaction between Daphalapurkar and Bandals.

Therefore, Bandals were never admitted as members of the Petitioner-Society. By Deed of Assignment dated 1 April 2010, Bandals have sold and transferred the godown to Respondent Nos.1 and 2. The Society contends that even for this transaction, its consent was not obtained.

11) The Society initially did not grant membership to Respondent Nos.1 and 2-Jyoti Nitin Lunia and Nitin Balchandji Lunia (**Lunias**) mainly on the ground of non-procurement of its consent for the transaction. It appears that the Society initially did not raise the objection of godown being a part of shop No.8. When the application for membership was made by Respondent Nos.1 and 2-Lunias on 30 September 2013, the initial reaction of the Petitioner-Society was to merely demand copies of the documents. When Respondent Nos.1 and 2 issued Advocate's notice dated 4 January 2018, Society's Advocate responded on 17 February 2018 once again raising the issue of Daphalapurkar not securing permission of the Society for the transaction. Response of the Society was as under:

सदर सोसायटीत मे. अश्विनी कन्स्ट्रक्शन्स यांनी दुकान व गोडाऊन क्र. ८ ही मिळकत श्री. प्रकाश बाळकृष्ण डफळापूरकर यांना विक्री करण्यात आलेली असून श्री. प्रकाश बाळकृष्ण डफळापूरकर यांचे नावे सोसायटीने भाग खाते न. ४५ हा दिनांक १०/६/२०१० रोजी मॅनेजिंग कमिटीच्या ठरावानुसार समंत करण्यात आलेला असून आजतागायत तो त्यांचेच नावे आहे. परंतु श्री. प्रकाश बाळकृष्ण डफळापूरकर यांनी सोसायटीकडून कोणत्याही प्रकारची नाहरकत प्रमाणपत्र तसेच अर्ज हा केलेला नव्हता व नाही. त्यामुळे सदर भाग दाखला खाते न. ४५ हा इतर कोणाचेही नावे वर्ग केलेला नाही. अथवा त्यांनी सभासदत्वाचा राजीनामा ही दिलेला नाही. सबब त्यांचा भाग खाते न. ४५ हा इतर कोणासही म्हणजेच तुमचे अशिलांचे नावे करण्याचा संबंधच येत नाही.

12) Even when application was made before the Deputy Registrar, the Petitioner-Society did not raise the issue of shop and godown being composite property and opposed the application only on the ground of

non-securing of its permission. The Society's response to the said application before the Deputy Registrar reads thus:-

(२) प्रस्तुत जाबदेणार यांचे पुढे असे म्हणणे आहे कि, सदर मिळकत मे. अश्विनी कन्स्ट्रक्शन्स यांनी दुकान व गोडाऊन क्र. ८ ही मिळकत श्री. प्रकाश बाळकृष्ण डफळापूरकर यांना विक्री करण्यात आलेली असून श्री. प्रकाश बाळकृष्ण डफळापूरकर यांचे नावे सोसायटीने भाग खाते न. ४५ हा दिनांक १०/६/२०१० रोजी मॅनेजिंग कमिटीच्या ठरावानुसार समंत करण्यात आलेला असून आजतागायत तो त्यांचेच नावे आहे. परंतु श्री. प्रकाश बाळकृष्ण डफळापूरकर यांनी सोसायटीकडून कोणत्याही प्रकारची नाहरकत प्रमाणपत्र तसेच अर्ज हा केलेला नव्हता व नाही. त्यामुळे सदर भाग दाखला खाते न. ४५ हा इतर कोणाचेही नावे वर्ग केलेला नाही. अथवा त्यांनी सभासदत्वाचा राजीनामा ही दिलेला नाही. सदर सभासदत्व आजही अबाधित आहे. तसेच सदर गोडाऊन संदर्भात श्री. प्रकाश बाळकृष्ण डफळापूरकर यांनी विक्रीसंदर्भात (संस्थेकडून) जाबदेणार कडून नाहरकत प्रमाणपत्र कधीही घेतलेलं नव्हते व नाही. तसेच अर्जदारांनी मागणी सभासदत्वासाठी मूळता ज्याचेकडून खरेदी घेतले त्यांचे नावे (संस्थेकडे) जाबदेणारांकडे सभासत्व कधीच नव्हते व नाही.

३) प्रस्तुत जाबदेणार यांचे पुढे असे म्हणणे आहे कि, प्रस्तुत वर नमूद मालमत्तेच्या पहिल्या मालकाने म्हणजेच श्री. डफळापूरकर यांनी त्यांच्या मालमत्तेतील मिळकत इतर व्यक्तीस हस्तांतरित करते वेळी जाबदेणार यांचे कोणतीही नाहरकत घेतलेली नव्हती व नाही. तसेच त्यांनी आपल्या नावे असलेला सोसायटीचा भाग खाते न. ४५ हा चा राजीनामाही आजतागायत दिलेला नव्हता व नाही. त्यामुळे प्रस्तुत अर्जदारांनी केलेला महाराष्ट्र सह. अधिनियम १९६० चे कलम २३ (२) अन्वये केलेला अर्ज फेटाळण्यात यावा.

13) Even before the Divisional Joint Registrar, the Society did not raise the issue of godown and shop being part of same premises. However, in the present Petition, the main ground of challenging order of the Divisional Joint Registrar is that the godown is a part of shop and the same cannot be bifurcated for the purpose of treating only the godown as a 'flat' for the purpose of grant of membership to Respondent Nos.1 and 2.

14) To decide the controversy, it would be necessary to make a quick reference to the statutory scheme of the MCS Act. Under Section 154B-1(13) of the MCS Act, the term 'Flat' is defined as under:

154B-1. Definitions

13) "Flat" means block, chamber, dwelling unit, apartment, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified;

15) Under Section 154B-2 of the MCS Act a tenant co-partnership housing society cannot be registered unless five persons or at least 51% of total number of flats as per sanctioned plan join the registration proposal. Sub-section (1) of Section 154B-2 of the MCS Act provides thus:-

154B-2. Registration of co-operative societies.—

(1) No tenant co-partnership housing society shall be registered under this Act, unless it consists of at least five persons (each of such persons being a Member of different family) or at least fifty one per cent. (of total number of flats **as per sanctioned plan**) flat purchasers or intending Members and who are qualified to become Member under this Act, whichever is higher, joins the registration proposal of housing society to be registered.

(emphasis added)

16) Section 154B-5 of the MCS Act deals with limit on membership and provides thus:-

154B-5. Limit on Membership

A housing society shall not admit to its Membership persons exceeding the number of flats or plots, as the case may be, available for allotment in that co-operative housing society.

Provided that, a plot owners co-operative housing society may admit to its Membership an organisation (co-operative housing society, company, association, etc.) of flat purchasers, in case the plot owner

had constructed and sold flats as per prevailing rules, in place of original plot owner Member.

Thus, under the statutory scheme of the MCS Act, for becoming member of a co-operative housing society, one must own a flat, which is approved in the sanctioned plan and the membership in a cooperative housing society cannot exceed the number of flats. This follows that the number of flats referred to in Section 154B-5 means the flats as sanctioned in the development permission. The place in the building which is not sanctioned in the development permission as one of the enumerated premises while defining the term 'flat' under Section 154B-1(13) cannot be taken into consideration for allotment of membership in a cooperative housing society. This would mean that a person claiming rights in respect of only a parking space or staircase or veranda in the building cannot be admitted as society's member. Also true is the position that a flat cannot be artificially bifurcated for creation of two membership. In case the bifurcation of a singular flat is made, such bifurcation must be sanctioned by the planning authority. To illustrate, purchase of a larger premises is done for accommodation of a large family during construction of a building and one flat is accordingly sanctioned by the planning authority. However after passage of time, such large premises are not needed and the purchaser decides to bifurcate the premises into two flats, he can apply to the planning authority and get the same bifurcated. There is no prohibition on bifurcation of one flat into multiple flats provided the planning authority sanctions such bifurcation as per the planning norms.

17) Chapter -XIII-B has been inserted in the MCS Act for making special provisions relating to co-operative housing societies. After the

amendment, Section 154B-1(13) defined the term 'Flat' in a expansive manner and the term 'Flat' now includes even a godown or self-contained part of immovable property. Going strictly by definition of the term 'Flat' under Section 154B-1(13) of the MCS Act, godown purchased by Respondent Nos.1 and 2 can be treated as a flat.

18) The next requirement is that a flat must be sanctioned in the development permission issued by the Planning Authority. In *Uday Dalal* (supra) this Court, after examining statutory scheme of the MCS Act, has held that the sanctioned plan is the first and most important document, which the Registrar must take into consideration while deciding membership application. This Court has held in paragraphs 18 to 24, 26 and 40 as under:

18. Section 23 creates the right of open membership. It prevents a society from refusing membership without sufficient cause. However, this right applies only to persons duly qualified under the Act and the bye laws. The phrase "duly qualified" is the key. In a housing society governed by Chapter XIII-B, qualification for membership is not determined by mere physical possession of premises. It depends on whether the applicant owns or intends to own a flat recognised in the sanctioned plan. Even the deemed membership mechanism in Section 23(1A) cannot override the statutory ceiling under Section 154B-5. A deemed membership arises only if the applicant is otherwise eligible. Eligibility, in turn, depends on the sanctioned plan. The appellate power under Section 23(2) is supervisory. The Registrar cannot treat a structure as a flat unless it appears in the sanctioned plan or a sanctioned modification proves its independent existence.

19. The definition of "flat" in Section 154B-1(13) widens the scope of premises that may be treated as flats. However, this wider definition operates within the larger statutory framework. A structure may be physically capable of being used as a flat. But unless the sanctioned plan recognises it as a separate and self contained unit, the law does not recognise it as a flat for granting membership. The definition describes the characteristics of a flat. Sections 154B-2, 154B-3 and 154B-5 determine whether such a flat qualifies for membership. Thus,

the sanctioned plan acts as the filter that converts physical structures into legally recognised flats.

20. Section 154B-2 makes the sanctioned plan an essential condition for registration. A housing society cannot be registered unless at least fifty one per cent of the flat purchasers as per sanctioned plan join the proposal. This demonstrates that the sanctioned plan is not a technical document. It decides the basic identity of the society, the number of flats, and the minimum number of members. When the law requires flats “as per sanctioned plan”, it excludes any room, garage, outhouse or extension not recognised in the sanctioned plan. The society’s membership begins where the sanctioned plan begins, and ends where the sanctioned plan ends.

21. Section 154B-3 further strengthens the scheme. It obligates the promoters to produce commencement or completion certificates and to place the sanctioned plan before the Registrar. The Registrar must verify whether the number of flats mentioned in the registration proposal matches the sanctioned plan. **This statutory verification ensures that no extra flats are created later by private arrangements. It also ensures that no part of an existing flat can later be claimed as an independent unit unless the sanctioned plan is amended by the competent authority.** Registration itself is founded upon the sanctioned plan, showing that any later deviation without sanction has no legal effect.

22. **Section 154B-5 imposes a strict limit on membership.** A housing society cannot admit more members than the number of flats available for allotment “in that society”. The expression “in that society” refers to the flats recognised at the time of registration and appearing in the sanctioned plan. This provision leaves no discretion to the general body, the managing committee or even the Registrar. Membership is tied entirely to the number of flats as per the sanctioned plan. No sale deed, gift deed, family arrangement, inspection report or general body resolution can enlarge the number of flats. **Only a sanctioned modification by the planning authority can do so. This section is the statutory safeguard against manipulation of voting strength by creating artificial flats.**

23. When these provisions are read together, the legal position becomes clear. The sanctioned plan is the foundation of membership. It determines (a) how many flats exist, (b) how many members a society may have, (c) who is eligible for membership, and (d) whether a premises qualifies as a “flat” for membership purposes.

24. In disputes like the present one, the sanctioned plan is therefore the first and most important document. **Before deciding membership, the authority must verify whether the disputed premises appears in the sanctioned plan as an independent flat. Without such**

verification, no order under Section 23(2), and no resolution of the general body, can be legally sustained.

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26. A cooperative society is a body created by its members. It functions according to the Act and its own bye laws. Courts do not interfere in every internal matter of a society. The law expects societies to manage their affairs on their own. This autonomy, however, is not absolute. It must operate within the limits fixed by the statute. When the bye laws lay down how a person should apply for membership and how the managing committee must consider such an application, that process must be strictly followed. These safeguards ensure fairness and prevent misuse of power. **If there are allegations that documents have been fabricated, or that an existing flat has been deliberately split into artificial parts to create new memberships, the court cannot remain silent.** Such acts, if proved, would strike at the very foundation of cooperative functioning and would affect the rights of all members. The court must step in to protect the integrity of the society.

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40. **Therefore, unless the disputed premises find place in the sanctioned plan as an independent flat, they cannot be treated as such for the purpose of granting membership.** The authorities ought to have examined the sanctioned plan, municipal records and earlier public documents before reaching their conclusion. Their failure to do so strikes at the root of the decision and cannot be sustained.

(emphasis added)

19) It is therefore necessary to examine whether the godown is sanctioned as an independent unit in the sanctioned plan or is it a part and parcel of Shop No. 8. Mr. Kandarkar has placed on record copies of original sanctioned plan relating to ground and basement floors of the building. Ground floor plan sanctioned by the Pune Municipal Corporation on 25 June 1993 would indicate that shop No.8 has been sanctioned therein with a loft. Similarly, in the basement floor plan, a godown beneath shop No.8 has been sanctioned for storage of 'non-combustible material'. The plan does not indicate presence of any

internal staircase from shop to the godown. On the other hand, godown is accessible from adjoining common staircases. Thus, a separate common staircase is available to access basement floor and going strictly by the sanctioned plan, no separate individual staircase is sanctioned from shop No.8 for accessing the godown. The sanctioned plan thus clearly indicates that the godown has been sanctioned separately from that of shop No.8.

20) Mr. Kandarkar has attempted to suggest that whenever premises are sanctioned, they are given specific numbers by the planning authority. He states that the shop is assigned number '8' where there is no corresponding number to the godown beneath it. In my view, this omission in the plan would make no difference. There is one more godown adjacent to the godown of Respondent Nos.1 and 2, which also does not bear any particular name/number. Above that godown, is shop No.1. This Court enquired with Mr. Kandarkar as to whether owners of Shop No.1 and owners of godown beneath it are same or different or whether there is separate membership for the two structures. Mr. Kandarkar fairly responded that the two are separate structures with two different memberships. Thus, the godown below Shop No.1, though same is not assigned a specific number, is sold to a person different than the owner of shop No. 1 and the godown occupant /owner is admittedly a member of the Society. I do not find a valid reason as to why a separate treatment needs to be given to the person, who owns godown beneath shop No. 8.

21) Mr. Kandarkar has contended that godown does not have independent access and that the same is required to be accessed only

through an internal staircase going through shop No.8. The contention however does not appear to be correct at least from the sanctioned plan, which does not show presence of any internal staircase passing through shop No. 8 to the godown. On the other hand, godown apparently needs to be accessed from a common staircase going from ground floor to the basement floor.

22) In the present case, confusion is apparently created on account of purchase of shop No.8 and godown beneath it by same person- Daphalapurkar. Merely because he purchased both the structures by common agreement, the Society issued common share certificate to Daphalapurkar and he was granted only one membership. This does not mean that there was any restriction for Daphalapurkar from segregating his ownership *qua* basement godown and to sell it to an outsider. Ordinarily, Society ought to have issued two separate share certificates to Daphalapurkar in respect of shop No.8 and godown as is done in the case of shop No.1 and godown beneath it. Be that as it may. Society found it more convenient to give single membership to Daphalapurkar, who has purchased shop No.8 and godown beneath it by a common document.

23) Thus, as per sanctioned plan, it clearly appears that godown and shop are independently sanctioned and godown does not appear to be a part of shop No.8. The case does not involve deliberate bifurcation of a single structure into two structures as was the case in *Uday Dalal* (supra) wherein servant quarter attached to the flat was sought to be converted into an independent unit. Here two premises are located on different floors and are separately sanctioned in the plan.

24) To put any doubt to rest, Respondent Nos.1 and 2 have procured separate occupation certificate dated 10 March 2021 *qua* only the godown. They have also secured a separate commencement certificate *qua* the godown on 6 July 2021. The said commencement certificate dated 6 July 2021 sanctions the godown as was done in the original sanctioned plan dated 25 June 1993. The godown is now assigned a number, which was lacking in the original plan. The comparative difference in the description of the godown in the original and revised sanctioned plans is as under:-

Description in the sanctioned plan dated 25 June 1993	Description in the Revised sanctioned plan dated 6 July 2021
GODOWN for NON COMBUSTIBLE MATEIRAL 22'-8' X 11'-0" 272.09 SQFT B/UP	GODOWN NO. FOR NON COMBUSTIBLE MATERIAL 22' - 8''x 11'- 0"=272.09 sq.ft. B/UP

25) Thus, in the revised sanctioned plan, the godown is assigned a separate number (Godown No. 1) since the Society was attempting to confuse the godown as a part of shop No.8. Thus, in the original plan itself godown was always a separate structure of shop No.8. To quell any doubts, the revised sanctioned plan now identifies godown as a separate structure by assigning it a separate number.

26) I am not impressed by objection of Mr. Kandarkar that the Divisional Joint Registrar could not have relied on additional document in the form of personal occupation certificate. It appears that the Society had never raised the issue of two structures being common till filing of reply in the Revision and possibly sought to raise the same during the

course of arguments before the Divisional Joint Registrar. In any case the Divisional Joint Registrar was under statutory duty to verify whether the godown in the basement is a sanctioned structure or not. He has performed the statutory duty by conducting the said verification and cannot be criticized for placing reliance on the personal occupation certificate.

27) Petitioner-Society has sought to raise doubts about genuineness of the document being 'personal' occupation certificate. It is contended that there is no concept of issuing a 'personal' occupation certificate. It is also contended that the plans cannot be revised without the consent of the society. However, Mr. Kandarkar does not dispute the position that what is produced by Respondent Nos. 1 and 2 is a document issued by the Pune Municipal Corporation. It is not a forged document. It is accompanied by a revised commencement certificate. If Petitioner-Society has any doubts about the power of the Pune Municipal Corporation to issue such personal occupation certificate or in sanctioning the revised plan without the consent of the society, the remedy lies elsewhere. In any case, even if the said personal occupation certificate is ignored, I am fully satisfied that the godown was separately sanctioned in the original development permission and the same is once again sanctioned as a separate premises in the revised commencement certificate/development permission dated 6 July 2021. If the Society is aggrieved by issuance of revised commencement certificate or personal occupation certificate, it needs to challenge the same in independent proceedings and the challenge cannot be permitted to be raised in collateral proceedings relating to grant of membership.

28) In my view therefore, the statutory requirement of flat being sanctioned in the development permission is clearly met in the present case.

29) Considering the overall conspectus of the case, in my view the Divisional Joint Registrar has rightly set aside order passed by the Deputy Registrar. Respondent Nos.1 and 2 are entitled to membership *qua* the godown, which qualifies the description as 'Flat' and is as per the approved sanctioned plan. As a matter of fact, creation of two memberships in respect of Shop No.8 and godown beneath it enures to the benefit of the Society rather than subjecting it to any loss. The Society would earn two sets of service charges in respect of shop No.8 and godown, as against singular service charges, if both are treated as part of the same structure for grant of one membership.

30) I am therefore, not inclined to interfere in the impugned order passed by the Divisional Joint Registrar, which appears, to my mind, to be unexceptionable. Writ Petition is devoid of merits. It is accordingly **dismissed** with no order as to costs.

[SANDEEP V. MARNE, J.]