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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11719 OF 2026

Ramesh K. Devadiga and Ors. ***...Petitioners***

: Versus :

Khernagar Nandadeep Cooperative Housing Society Limited and Ors. ***...Respondents***

WITH

WRIT PETITION NO.12770 OF 2026

Ramesh K. Devadiga and Ors. ***...Petitioners***

: Versus :

Khernagar Nandadeep Cooperative Housing Society Limited and Ors. ***...Respondents***

Mr. Kunal Bhanage with Mr. Akshay Pawar, Mr. Faiz Ali Khan and Ms. Sarita Shetye *for the Petitioner.*

Mr. Mayur Khandeparkar with Mr. Devansh Shah, Mr. Bishwajeet Mukherjee and Mr. Naman Gupta *for the Respondents.*

CORAM: SANDEEP V. MARNE, J.

RESD. ON: 28 SEPTEMBER 2026

PRON. ON: 14 OCTOBER 2026

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JUDGMENT:

1) These two Petitions are filed by the Petitioners challenging the orders passed by the Co-operative Appellate Court. By judgment and order dated 4 September 2026, the Co-operative Appellate Court has allowed A.O. No. 45 of 2026 preferred by the Respondents and has set aside the order dated 14 May 2026 passed by the Co-operative Court rejecting application under Order VII Rule 11 of the Code of Civil Procedure, 1908 **(the Code)**. The Co-operative Appellate Court has allowed the application at Exhibit 13 taken out by Respondents and has rejected Dispute CC/II/49/2026 under Order VII Rule 11 of the Code. Petitioners have filed Writ Petition No.12770 of 2026 challenging the judgment and order dated 4 September 2026 passed by the Co-operative Appellate Court.

2) In its Dispute CC/II/49/2026, Petitioners had taken out application at Exhibit 5 seeking temporary injunction, which was rejected by the Co-operative Court by order dated 14 May 2026. Petitioners filed A.O. No. 41 of 2026 challenging order dated 14 May 2026. By judgment and order dated 7 August 2026, the Co-operative Appellate Court has dismissed A.O. No. 41 of 2026 preferred by the Petitioners. Petitioners have accordingly filed Writ Petition No.11719 of 2026 challenging judgment and order dated 7 August 2026 passed in A.O. No. 41 of 2026.

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3) Petitioners are members of Khernagar Nandadeep CHSL. The society is formed by the occupants of building constructed in the year 1956 at Khernagar, Bandra East, Mumbai. The society is a lessee in respect of land admeasuring 106.49 sq.m. bearing Survey No.341 (Pt.) and CTS No. 602 (Pt.) situated at Khernagar, Bandra East, Mumbai. Respondent No.1-society comprises of 54 members. Society's building No.25 comprises of ground plus 2 floors. By virtue of Deeds dated 22 December 2012, the society claims to be the lessee of the land and owner of the building. Since society's building is constructed in the year 1956, the same is in the need of redevelopment. On 25 August 2018, the society held Special General Body Meeting, resolving to self-develop the building under Regulation 33(5) of Development Control and Promotion Regulations, 2034. **(DCPR 2034)**. The society appointed M/s. Dilip Sanghvi Consultants as Project Management Consultant. On 29 December 2021, MHADA issued offer letter sanctioning and approving utilization of additional built-up area (**BUA**) under Regulation 33(5) of DCPR.

4) The case of the Petitioners as pleaded in the Dispute is that during the years 2011-12, the society proposed redevelopment of its building and the Managing Committee appointed M/s. Kaustubh Construction Pvt. Ltd. as developer without following the mandatory Government guidelines. The appointment of the developer was ultimately cancelled leading to financial losses to the society. The society resolved to undertake self-redevelopment. In a resolution adopted in the Special General Body Meeting held on 25 August 2018, Requests for Proposals were invited on four occasions between 2021 to

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2022 and multiple proposals received were rejected by the Managing Committee. On 11 November 2022, Mr. Nitin Sakalchand Jain was appointed as Director of Shree Salasar Investments Pvt. Ltd., which is a parent company of M/s. Vinca Realtors Pvt. Ltd. On 8 December 2022, only one tender was received from M/s. Vinca Realtors Pvt. Ltd. According to the Petitioners, there is conflict of interest and violation of Government guidelines since Mr. Nitin Sakalchand Jain is the brother of one of the members, Ms. Shilpa Sakalchand Jain. That tender documents submitted by M/s. Vinca Realtors Pvt. Ltd. were grossly deficient. That the Managing Committee executed notarised Development Manager Agreement dated 8 October 2024 **(DMA)** and Finance Agreement dated 31 March 2025 was registered on 7 April 2025 without General Body resolution.

5) Petitioners have alleged in the Dispute that under the so-called self-development model opted for, the society members received only 29% of constructed area while 71% is taken away by the Development Manager / Financer. The Petitioners have alleged various irregularities in the process of self-redevelopment undertaken by the society. Petitioners have pleaded that the DMA dated 8 October 2024 executed between the Society and M/s. Vinca Realtors Pvt. Ltd. as well as Finance Agreement dated 31 March 2025 executed between Society and M/s. Vinca Realtors Khernagar Pvt. Ltd. are *ab initio* void. According to the Petitioners, the project implemented by the society is nothing but third-party redevelopment project in the name of self-redevelopment. According to the Petitioners, the project undertaken by the Society results in gross loss of area to the members, which is otherwise

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admissible under self-redevelopment. Considering the limited scope of enquiry in the petition, it is not necessary to refer to the other pleadings in their Dispute. Petitioners have impleaded the society and its Chairman, Secretary and Treasurer as Opponents in the dispute. The Petitioners have prayed for a restraint order against the Opponents from proceeding further with the Project. They have sought a direction for the production of basic preliminary documents of M/s. Vinca Realtors Pvt. Ltd. Petitioners have also sought a direction to the opponents to comply with the Government guidelines regarding self-redevelopment.

6) In their Dispute, Petitioners filed application at Exhibit 5 seeking interim injunction in relation to redevelopment/self-redevelopment process undertaken by the Society. Respondents appeared in the Dispute and filed an application under Order VII Rule 11 of the Code seeking rejection of the Dispute. Both application at Exhibit 5 for temporary injunction and application filed by the Respondents for rejection of plaint at Exhibit 13 were taken up for decision by the Co-operative Court. By common order dated 14 May 2026 the Co-operative Court rejected both the applications. Thus, temporary injunction was declined to the Petitioners. At the same time, Respondents' application for rejection of plaint was also rejected. Two separate appeals were filed challenging the common order dated 14 May 2026. Petitioners filed A.O. No.41 of 2026 challenging rejection of its application at Exhibit 5 for temporary injunction. The Respondents on the other hand, filed A.O. No.45 of 2026, challenging rejection of its application under Order VII Rule 11 of the Code. The Co-operative Appellate Court proceeded to dismiss A.O. No. 41 of 2026 filed by the Petitioners and confirmed the

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order dated 14 May 2026 rejecting application for temporary injunction at Exhibit 5. Petitioners are aggrieved by the order dated 7 August 2026 passed by the Co-operative Appellate Court in A.O. No.41 of 2026 and have accordingly filed Writ Petition No. 1179 of 2026.

7) A.O. No. 45 of 2026 has been allowed by the Co-operative Appellate Court by judgment and order dated 4 September 2026. The Co-operative Appellate Court has set aside the order dated 14 May 2026 on application at Exhibit 13 and has allowed the application preferred by the Respondents under Order VII Rule 11 of the Code. Accordingly, Dispute CC/II/49/2026 has been dismissed by the Co-operative Appellate Court vide order dated 4 September 2026. Petitioners are also aggrieved by order dated 4 September 2026 passed by the Co-operative Appellate Court in A.O. No.45 of 2026 and have accordingly filed Writ Petition No.12770 of 2026.

8) Mr. Bhanage, the learned counsel appearing for the Petitioners submits that the Co-operative Appellate Court has grossly erred in allowing A.O. No.45 of 2026 filed by the Respondents and in rejecting the Dispute under Order VII Rule 11 of the Code. He submits that the dispute pertains to management and business of the society. That the Dispute is filed merely for seeking disclosure of documents as prayed for and compliance with the applicable Government guidelines. That the issues raised in the Dispute directly concerns conduct of General Body Meetings and management of society's affairs. That prayers in the Dispute are directed for mere furnishing of documents to examine whether there is compliance with applicable Government

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guidelines or not. That none of the prayers can be granted or entertained by the City Civil Court as sought to be canvassed by the Respondents.

9) Mr. Bhanage further submits that need for adjudication of the dispute by the Co-operative Court is illustrated by the record of the General Body Meeting held on 19 February 2023 in which a Member enquired about the balance sheet of the Development Manager for the preceding 3 years. That the representative of the Development Manager stated that copies were already submitted to the Managing Committee. When Petitioner sought copies of the balance sheet, the Chairman responded that the same could be obtained from the website. That therefore, the Petitioners are entitled to approach the Co-operative Court seeking disclosure of documents and particulars concerning financial capacity and credentials of the Development Manager as well as records of the Managing Committee demonstrating compliance with the guidelines. That an adjudication of the relief is not contingent upon presence of the Development Manager in the Dispute. That the Development Manager is neither a necessary nor a proper party to the Dispute since reliefs particularly concern the acts, obligations, decisions and disclosures by the Managing Committee in relation to the management and affairs of the society. That Dispute as presently framed is capable of being effectively and completely adjudicated in absence of the Development Manager. That, therefore, Dispute could not have been rejected under Order VII Rule 11 of the Code.

10) Mr. Bhanage further submits that provisions of Section 94(3)(a) of the MCS Act have no application to the reliefs sought in the

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present dispute. That the relief can be granted effectively against the society and its Managing Committee, even in absence of the Development Manager or any person claiming through the Development Manager. That having regard to the nature of relief sought, the Dispute squarely pertains to the management, administration and business of the society. That Petitioners merely seek transparency and disclosure from the Managing Committee regarding the proposed redevelopment process including compliance with applicable Government guidelines. That Petitioners seek the basis on which financial capacity of Development Manager has been assessed. That the dispute is therefore maintainable under Section 91 of the MCS Act. He prays for setting aside the impugned judgment and order dated 4 September 2026 passed by the Co-operative Appellate Court.

11) Mr. Bhanage further submits that the Co-operative Appellate Court has erred in dismissing A.O. No.41 of 2O26 filed by the Petitioners challenging the order dated 14 May 2026 on application at Exhibit 5. That Respondents deserve to be restrained from proceeding further with redevelopment/self-redevelopment till the prayers in the dispute are decided. That the dispute would be rendered infructuous if further steps in the redevelopment process are undertaken. He accordingly prays for setting aside the order dated 7 August 2026 passed by the Co-operative Appellate Court in A.O. No. 41 of 2026 and for grant of temporary injunction in terms of prayers made in the application at Exhibit 5.

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12) Mr. Khandeparkar, the learned counsel appearing for Respondent No.1-society opposes both the petitions. He submits that the Co-operative Appellate Court has rightly rejected the Dispute under Order VII Rule 11 of the Code. That jurisdiction of a Court/Tribunal to entertain a proceeding needs to be established in the context of averments made in the plaint/application and the nature of the suit/proceeding needs to be examined. That in case of an overlap, Civil Court under Section 9 of the Code would have jurisdiction to entertain the suit as the Court possesses plenary powers. That for a Dispute in relation to redevelopment to be maintainable under Section 91 of the MCS Act, the plaint in the dispute must fulfill twin conditions of:

(i) Positive statement that post enactment of Maharashtra Co-operative Societies (Amendment) Act, 2019, the bylaws of the society have been amended so as to include 'redevelopment' as the business of the society, and

(ii) Positive Statement that no Development Agreement and/or other documents has/have been executed creating right, title or interest in the society's property.

13) Mr. Khandeparkar submits that in the present case, though redevelopment is one of the objects of the society, it is not the business of the society. That the Dispute Application does not contain any positive statement about amendment of bylaws of the society so as to include redevelopment as business of the society. Furthermore, there are no averments for non-execution of document creating right, title or interest in the property of the society. On the other hand, Respondent

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No.1-society has executed DMA dated 8 October 2024 in favour of M/s. Venca Realtors Pvt. Ltd. That a registered Finance Agreement dated 31 March 2025 is executed in favour of the Financer (M/s. Vinca Realtors Khernagar Pvt. Ltd.). That Development Manager and the Financer are not made party respondents despite the fact that they would by directly affected by any order passed in the Dispute Application. That the Dispute Application indirectly challenges the DMA and registered Finance Agreement under a guise of Dispute filed under Section 91 of the MCS Act. That bar of jurisdiction would apply even in a case where Development Manager is appointed in cases involving self-redevelopment and Petitioners' attempt to draw distinction between redevelopment and self-redevelopment is irrelevant for the purpose of deciding the issue of jurisdiction. That it is Petitioners' own case that the self-redevelopment project is nothing but regular third-party redevelopment.

14) Mr. Khandeparkar also opposes Writ Petition No. 11719 of 2026. He submits that grant of any interim order at this stage would seriously prejudice the entire redevelopment process. He submits that the intention of the Petitioners is to delay the redevelopment process. As on date, 40 out of 50 members have vacated their premises. That 34 members have executed PAAAs. That building is admittedly in dilapidated condition. That members are assured of their entitlements to 23% additional area on their existing area alongwith other benefits such as hardship compensation, transit rent, shifting charges etc. In support of his contentions, Mr. Khandeparkar relies on following judgments:

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(i) ***Margret Almeida vs. Bombay Catholic Co-operative Society Ltd.***[1]
(ii) ***Parimal H. Solanki vs. Bhoumik Co-operative Housing Society Ltd.***[2]
(iii) ***Baliram Totaram Misal vs. Saujanya Co-operative Housing Society Ltd.***[3]
(iv) ***Anthony Irineus Carneiro and Anr. vs. Francis Colaco and Ors.***[4]

On above broad submissions, Mr. Khandeparkar prays for dismissal of both the Petitions.

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

16) Petitioners, who are members of the First Respondent-society, are aggrieved by rejection of their Dispute under Order VII Rule 11 of the Code by the Co-operative Appellate Court. They are also aggrieved by the concurrent orders passed by the Co-operative Court and Co-operative Appellate Court refusing to grant temporary injunction during pendency of the Dispute. Since Petitioner's entitlement to secure temporary injunction depends on retention of the Dispute before the Co-operative Court, it is first necessary to examine the correctness of judgment and order dated 4 September 2026 passed by the Co-operative Appellate Court in A.O. No. 45 of 2026. Accordingly, I first proceed to decide whether the Co-operative Appellate Court has erred in allowing

[1] (2012) 5 SCC 642
[2] Interim Application (L) No.25993 of 2022 decided on 6 October 2022.
[3] Civil Writ Petition No.15791 of 2025 decided on 27 August 2026
[4] Civil Writ Petition No.9817 of 2026 decided on 18 September 2026.

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the Appeal preferred by the Respondents and in rejecting the Dispute under Order VII Rule 11 of the Code.

17) In the present case, Petitioners have filed Dispute CC/II/49/2026 against the Society, its Chairman, Secretary and Treasurer seeking following reliefs:

> a. This Hon'ble Court be pleased to pass orders restraining the Opponents from proceeding further with the project in any manner till the disposal and/or adjudication of this case;
>
> b. This Hon'ble Court be pleased to pass orders directing the opponents to produce all the basic preliminary inquiry documents i.e., 3 years balance sheet prior to appointment of Vinca Realtors Pvt. Ltd., previous work completed certificates and/or reports/OC in case of self-development projects, competitive tenders, project reports and any other related documents;
>
> c. This Hon'ble Court be pleased to pass orders directing the Opponents to comply to the government guidelines in regard to self-redevelopment;
>
> d. Grant interim stays on self-redevelopment activities pending final disposal being carried on by the opponents;
>
> e. Award costs of the proceedings;
>
> f. To pass such other orders and reliefs be granted in favour of the disputants as this Hon'ble Court may deem just, legal and proper.

18) Inviting my attention to the above-quoted prayers in the Dispute, it is sought to be suggested by the Petitioners that the Dispute contains only two substantive prayers, in Clauses-(b) and (c) which envisage directions to the opponents to produce documents and to comply with the government guidelines in regard to self-redevelopment. However, it is well settled position of law that the plaint is required to be read holistically for the purpose of deciding its exact nature. All the averments in the plaint are required to be read as a whole for deciding

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application for rejection of plaint under Order VII Rule 11 of the Code. After going through various averments in the plaint filed in the Dispute, there can be no doubt to the position that the Petitioners are aggrieved essentially by the manner in which society is implementing the self-redevelopment project. The main grouse of the Petitioners is that by virtue of introduction of third parties in the form of Development Manager and Financer, the Society has effectively handed over 71% of additional area to them while extending only 29% of additional area to the members. Petitioners have accordingly alleged that what Society has undertaken in reality is third-party redevelopment under the guise of self-redevelopment.

19) The averments relating to reduction in area to the members are to be found in para-3(f) of the Dispute Application, which reads thus:

> f. Loss to Members and Fraudulent "Self-Development" Model: That the Disputants further states and submits that under the so-called Self-Development (DM Module), members receive only 29% of constructed area, while 71% is cornered by the DM/Financeier, defeating the very concept of SELF-REDEVELOPMENT. There is no sharing ratio of sale proceeds, depriving members of control over income and corpus. Moreover, the members have been denied all government concessions, subsidies, and benefits available under Self-Redevelopment govt resolution dated 13-09-2019. As per the government guidelines in case of Self redevelopment the members get additional benefits in terms of more space, government subsidy, share in profit fromm the additional flats constructed.

20) The averments relating to Society implementing third-party redevelopment under the guise of self-redevelopment are to be found in para-3(i) of dispute application, which reads thus:

> i. That the Disputants further state and submit that the project is actually nothing but THIRD-PARTY REDEVELOPMENT in the name of SELF-

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REDEVELOPMENT. Only 4 SGM were held to discuss the entire project and its Procedures i.e. on 19/02/2023, 29/06/2024, 10/10/2024, and 14-06-2025. Out of which SGM dated 19-02-2023 and 14-06-2025 was focused on appointment and reappointment of DM. The remaining 2 SGM dated 29-06-2024 and 10-10-2024 was convened to cover different subject only once and no further discussion or approval has been obtained from the SGM. All the SGM was convened to obtain power of Authority to execute documents on behalf of the members only. The minutes of the previous SGM was not confirmed and approved in the subsequent SGM. Moreover, there is no transparency in the working of the society.

21) More importantly, there are specific averments in the Dispute Application that the DMA and Finance Agreement are executed. The necessary averments are to be found in paras-3(e) and 3(h) of the Dispute, which read thus:

e. Unauthorized Agreements and Abuse of Power: That the Disputants further states and submits that the Managing Committee executed a Notarized Development Manager Agreement dated 08-10-2024 without approval and over and above the members flat etc. The Disputants seeks liberty to refer and rely on the GR as and when required with the permissions of this Hon'ble Court. Information to the General Body. A Finance Agreement dated 30-03-2025 came to be registered on 07-04-2025, without any General Body resolution and is based on the invalid DM Agreement dated 08/10/2024. Moreover, the copies of these agreements were deliberately withheld from members and furnished only after intervention by the Deputy Registrar. Hereto annexed and marked as "Exhibit C" are the Finance Agreements and the Notarized Development Manager Agreement.

h. That the Disputants further state and submit that the financial papers i.e. balance sheet for the previous three years (31-03-2020,31-03-2021,31-03-2022) as mentioned in the tender document were not submitted along with the bid/tender by M/s. VINCA REALTORS PVT. LTD and /or before the appointment on 19/02/2023. The same has not been submitted till date. The documents required for preliminary enquiry and investigation of the project to verify the financial stability of the DM/contractor/Financer has not been furnished till date. The appointment letter dated 16/03/2023 as mentioned and issued by the society was accepted without specifying any terms, condition and scope of work to be handled by the DM. The appointment was not done in the presence of the Authorized Officer as envisaged in the Government guidelines dated 04/07/2019. The said above document was also not submitted before or during the SGM convened on 14/06/2025 before the appointed Authorized Officer. The tender was not opened in the presence of the Authorized Officer. The draft tender document dated 22/08/2022 was handed over to the bidder before

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inviting the Request for Proposal (RFP) as on 08/12/2022. The experience of the appointed DM under Self redevelopment is NIL. The monies /remuneration given to the DM is much higher than the offer as mentioned in document submitted by M/s. VINCA REALTORS PVT. LTD. Moreover, the remuneration paid to the financier is much higher than the offer as mentioned in document submitted by M/s. VINCA REALTORS PVT. LTD. The remuneration is decided before confirming the name of the Financier. The Development Manager Agreement executed on 08/10/2024 by and between Khernagar Nandadeep CHS and DM M/s. VINCA REALTORS PVT. LTD is a Notarized document. As such the Finance agreement executed on 31/03/2025 by and between Khernagar Nandadeep CHS and DM M/s. VINCA REALTORS KHERNAGAR PVT. LTD. is void ab-initio. The Project feasibility report has not been furnished for the proposed Self redevelopment project after 2020. The Project Feasibility Report has discrepancies. In fact, the project feasibility report of 19th Feb 2019 speaks about the cost of the project report to be 100 crores whereas the entire amount of the project as stated by the present DM is estimated to be Rs 11.25,00,000/- in the Finance Agreement. Hereto annexed "Exhibit D" is the minutes of meeting dated 14-06-2025.

22) Furthermore, there are serious allegations against Development Manager (M/s. Vinca Developers Pvt. Ltd.) and the Financer (M/s. Vinca Realtors Khernagar Pvt. Ltd.) throughout the Dispute Application. Some of the allegations against the duo are as under:

c. Conflict of Interest and Violation of Government Guidelines: That the Disputants further states and submits that Mr. Nitin Sakalchand Jain is the brother of Ms. Shilpa Sakalchand Jain, a member of the Society. He has also voted in the Society elections (2022). The Government Resolution dated 04-07-2019 specifically prohibits appointment of a contractor/developer who is a relative of a member or Managing Committee member. Despite this explicit prohibition, the Managing Committee welcomed and appointed the said interested party, repeating past illegalities. To substantiate the said the disputants hereby produces minutes of the SGM dated 29-06-2024. Hereto annexed and marked as "Exhibit A" is the SGM.

d. Invalid Tender, Financial Irregularities, and Misrepresentation: That the Disputants further states and submits that the tender documents submitted by M/s. Vinca Realtors Pvt. Ltd. were grossly deficient, lacking mandatory balance sheets, solvency certificates, prescribed proformas, and financial disclosures. The company has negligible paid-up capital, inconsistent GST history, undisclosed loans, and diverted business through another entity, all concealed from the members. Despite these deficiencies, the Managing Committee falsely represented the financial soundness of the DM/Financier. Hereto annexed and

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marked as "Exhibit B" are the documents showing the status of the present developer and the tenders cum bids and letters dated 10-2-203 and 16-03-2023. Moreover, after the meeting dated 25th January 2023 M/s. Vinca Realtors Pvt. Ltd addressed Offer letter for "Request for Proposal" dated 10th February 2023 which was consented by majority on the 19th of Feb 2023. It is pertinent to mention here that after consent of majority of 'the members were received by the society, the society on its own with illegal and malicious intention revised the offer vide their letter dated 16-03-2023 by adding a clause that FSI to be utilized 1,1,00,00/- sq. Ft as agreed by the parties" giving the Developer to take 70 percent of the constructed area for the Developer to use it and sell and get benefits for which they had never asked for in the offer letter.

k. The Disputants further state and submit that the financial position of M/s VINCA REALTORS KHERNAGAR PVT LTD and M/s. VINCA REALTORS PVT. Ltd is inadequate to complete the project vis-a-vis project feasibility report submitted by the PMC in the year 2020. The proposal for appointment of M/s VINCA REALTORS KHERNAGAR PVTLTD, Financier and M/s. VINCA REALTORS PVT in connivance with the Managing Committee and PMC seems to be an act of MONOPOLY and RESTRICTIVE PRACTICE adopted by the DM as all the above-mentioned parties have agreed not to include the Termination Clause in the agreements.

n. That the Disputants further state and submit that the GST Registration of M/s. VINCA REALTORS PVT. LTD. is of 26-04-2021 and the company was incorporated in 2011. The question here is now can a company work without a GST number for 10 years. This clarifies that in the last 10 years the appointed Developer have not done any work/business related to Self-development and/or redevelopment and are inexperienced in the said field. another point of great important here is that when the DM has not worked /completed any project under SELF REDEVELOPMENT, did not make any business in the last 10 years on what basis did, they bid for the present SELF REDEVELOPMENT PROJECT. The Managing committee are reluctant to maintain transparency and are reluctant to produce documents.

w. Appointment of M/S Vinca Realtors Ltd for self-redevelopment with vested interest. (1). The Disputants further state and submit that the present DM "M/S Vinca Realtors Ltd" has been appointed without giving any proof of his financial papers. The Managing Committee had backed this appointment without verifying the financial stability and experience of the DM. From the records, it reveals that the present DM has no experience in completing self-redevelopment project rather "NIL". (2) the Disputants further state and submit the matter is sub-judice with the Dy. Registrar of CHS wherein the eligibility of appointment of present DM has been questioned and challenged by the disputants.

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23) The above quoted paras are only a glimpse of spree of allegations levelled by the Petitioners against the Development Manager and the Financer. The entire Dispute Application is replete with allegations relating to alleged irregularities and illegalities in implementation of self-redevelopment project by the society.

24) Upon holistic reading of all the averments in the Dispute Application, it becomes difficult to accept that the Dispute pertains only to management and business of the society and that Petitioners have not questioned appointment of Development Manager or Financer. As a matter of fact, the prayers themselves make it more than apparent that the Dispute essentially challenges implementation of the self-redevelopment process. In prayer clause (a), there is an express relief sought against proceeding with the project. In prayer clause (c), direction is sought against the opponents to comply with government guidelines in regard to 'self-redevelopment'. Thus, the averments in the plaint as well as the prayers therein leave no manner of doubt that the Dispute relates to implementation of self-redevelopment project by the society.

25) Under Section 91 of the MCS Act, it is necessary to meet the twin requirements for maintaining a Dispute before a Co-operative Court. The first requirement is about parties to the Dispute, under which both parties need to be the ones enumerated in Clauses (a) to (e) of Section 91(1) of the MCS Act. The second requirement is with regard to the subject matter of dispute and the same must be the one specified in the opening part of Section 91(1).

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26) In ***Baliram Misal*** (supra), this Court has surveyed various judgments on the issue of maintainability of a Dispute under Section 91 of the MCS Act before the Co-operative Court concerning redevelopment of buildings of society. This Court has held in the judgment as under:

> 28. Following the ratio of the judgment of the Apex Court in *Margret Almeida*, in my view, the correct remedy for the Petitioners is to challenge the development agreement and power of attorney before the Civil Court. They have exercised the remedy of filing a Civil Suit. While determining challenge to the validity of development agreement and power of attorney, the Civil Court can also decide the issue of validity of the resolutions adopted by the Society. This is precisely what is held by this Court in *Komal Arvind Vesavkar* [Writ Petition No.8254 of 2022, decided on 15 January 2025] after appreciating the law enunciated by the Apex Court in paragraph 47 of the judgment in *Margret Almeida*.
>
> 29. It is also seen that challenging the general body resolutions adopted for execution of development agreement and power of attorney before Cooperative Court and challenging the validity of development agreement and power of attorney before the Civil Court would result in anomalous situation. To illustrate, if the Civil Suit (challenging the development agreement) is decided first and is dismissed and if the challenge to resolution raised in the Dispute before the Cooperative Court remains pending, since Civil Court has not determined the issue of validity of the general body resolutions adopted, the decree would not bind the Cooperative Court. If the Cooperative Court independently determines validity of resolution and holds that the resolutions adopted are bad in law, the same would lead to an incongruous situation where the resolution adopted for execution of the development agreement would be declared illegal whereas the Suit challenging the development agreement is dismissed. The objector (who is the disputant before the Cooperative Court and Plaintiff before the Civil Court) would achieve nothing by seeking theocratical declaration as to the illegality of the Resolution. **This is a reason why it is important that both the challenges to the resolution and to the development agreement are adjudicated upon by the same Court.**
>
> 30. Having held that the challenge to the resolution and challenge to the development agreement must be raised before the same Court, the issue for consideration is whether such composite challenge can lie before the Cooperative Court or before the Civil Court. In the judgment in *Margret Almeida* the Apex Court has interpreted the provisions of Section 94(3) of the MCS Act and has held that a person who has acquired interest in the property of a person who is party to a Dispute before filing of the Dispute, such person can never be made a party to the Dispute. It is only when acquisition of interest

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in the property occurs during pendency of the Dispute that the acquirer of such interest can be impleaded as a party to the Dispute. **Therefore, in a given case where the Development Agreement is already signed and executed and acquisition of interest in the property of the society has already happened, a member challenging such acquisition cannot implead the developer as party before the Cooperative Court. Since the developer cannot be a party before the Cooperative Court in such Dispute in view of provisions of Section 94(3) of the MCS Act, challenge to the Development Agreement would not be maintainable before the Cooperative Court. This is a reason why the correct remedy for a person who is aggrieved both by the general body resolution, as well as by the development agreement is to maintain a Suit before the Civil Court.** A member cannot segregate challenges by filing civil suit qua development agreement and file a Dispute before Cooperative Court qua the general body resolution. The member can also not file a composite dispute before the Cooperative Court challenging the resolution, as well as the development agreement as held by the Apex Court in *Margaret Almeida*. The correct remedy would be to file a civil suit raising a composite challenge to resolution and development agreement.

31. The conspectus of the above discussion is that the Dispute filed by the Petitioners before the Cooperative Court is clearly not maintainable. The developer has acquired interest in the property of the Society on 6 October 2023 and therefore the developer could not have been impleaded as party to the Dispute which is filed in June 2024. This is a reason why Petitioners have rightly not impleaded the developer as a party to the Dispute. However, the declaration sought by them qua resolutions without challenging the development agreement is meaningless. For the reasons discussed above, proper remedy for the Petitioners is to incorporate challenge to the resolutions in the pending suit. Even otherwise, there is no averment in the Dispute that redevelopment of property of the Society forms business of the Society or that the Bye-laws of the Society are brought in tune with the provisions of Section 154B(1)(17) of the MCS Act. The Cooperative Court has correctly dismissed the Dispute and there is no infirmity in the order of the Cooperative Appellate Court dismissing the Appeal.

(emphasis and underling added)

27) The Co-operative Appellate Court has followed the ratio of the judgment of this Court in ***Baliram Misal*** and has held that the Development Manager and Financer have acquired interest in the property of the Society in the year 2024. The Co-operative Appellate Court has held in paras-21 to 24 of its judgment as under:

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21. So, this clearly implies that in case the development agreement is executed and there is challenge to the resolution, the correct remedy for a person, so aggrieved would be to maintain a suit before the Civil Court.

22. Here, it is though admitted by the Respondents that the DA is executed but they claim that it is not registered but only notarized. However, it is seen that thereafter, the development has advanced further and agreements and financial agreements had already been executed. Out of total 54 members, 40 members had vacated their premises. It is further contended that the Society had already got permission from the Maharashtra Housing and Area Development Authority (in short the 'MHADA') on 02.06.2026 and also extended the time limit to those members who had not vacated their premised till 30.06.2026.

23. Even the minutes of meeting dated 14.06.2025 produced on record at Exh.D, also prima facie indicate that issues relating to the redevelopment procedure, section 79A compliance, role of PMC and the Development Manager and the objections raised by certain members were discussed in the meeting of the Society. It is also submitted by the Ld. Advocate of the Appellants that the Intimation of Approval (in short the I.O.A.) has been obtained and the PAAA has been signed with few members of the Society. It is an admitted position that the collective will of the housing society governs the project. If the redevelopment is stalled, the Society and other members will suffer financial loss due to escalating project cost.

24. The developer in the present case, has acquired interest in the property of the Society in the year 2024 and therefore, the developer could not have been impleaded as a party to the dispute which is filed in the month of February 2026. This is the reason why the Disputants have not impleaded the developer as a party to the dispute, rightly so, in view of the provisions of Section 94(3) of the MCS Act. In Mayfair (Supra), it is observed by the Hon'ble Bombay High Court that, dispute involving members, developers, managing committee in respect of redevelopment of the property, which becomes necessary in view of passage of time, is not relatable to the business of the Society. The initial development of the Co-operative Housing Society of constructing the building may be business of the Society, but the subsequent redevelopment is not. It is seen that there is no averment in the dispute that redevelopment/ self-development of the Society forms business of the Society or that the Bye-laws of the Society are brought in tune with the provisions of Section 154B (1) (17) of the MCS Act. Thus, considering the above, in my considered view, the dispute as is apparent from the plaint, is barred by law. Hence, I answer Point No.1 in the affirmative.

28) In my view, the Co-operative Appellate Court has correctly applied the ratio of the judgment in ***Margret Almeida*** and ***Baliram***

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Misal for holding that the Dispute filed by the Petitioner deserves to be rejected under Order VII Rule 11 of the Code. As observed above, there are clear averments in the Dispute Application about execution of DMA dated 8 October 2024 with M/s. Vinca Developers Pvt. Ltd and Finance Agreement dated 31 March 2025 with M/s. Vinca Realtors Khernagar Pvt. Ltd. According to the Petitioners, the effect of the two agreements is creation of rights in favour of the Development Manager and Financer to the extent of 71% additional area. Mr. Bhanage has levelled an allegation during the course of his submissions that the two agreements result in BUA admeasuring approximately 60,000 sq.ft. to be granted to Financer and 10,000 sq.ft. BUA being granted to Development Manager. Both the documents are produced alongwith the Dispute Application. Perusal of both the Agreements would clearly indicate that the rights are created in favour of the Development Manager and Financer in the BUA to be constructed while undertaking the redevelopment project. Thus, there are express averments in the Dispute Application about creation of rights in favour of the Development Manager and Financer in the property of the Society. Those rights are created before filing of the Dispute Application. Thus, there is acquisition of rights in the property of the society before filing of the Dispute. Therefore, the Development Manager or the Financer cannot be impleaded as party opponents to the Dispute under Section 94(3)(a) of the MCS Act as held by the Apex Court in ***Margret Almeida***. This appears to be the reason why deponents have not impleaded the duo in the Dispute Application. Though the Development Manager and Financer are not impleaded as party opponents in the Dispute, its outcome would clearly affect the duo. The rights in the property of the Society are created in favour of

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Development Manager and Financer. Therefore, the outcome of the Dispute would clearly affect their rights. Therefore, following the ratio of the judgment of this Court in ***Baliram Misal***, the correct remedy for the Petitioners would be to file a civil suit raising composite challenge to the decisions of the Society as well as the DMA and Finance Agreement.

29) It appears that after the judgment of this Court in ***Baliram Misal***, a Coordinate Bench of this Court has delivered the judgment in ***Anthony Carneiro*** (supra). After taking into consideration various judgments of this Court, including the judgment in ***Baliram Misal*,** this Court has held in paras-43 to 48 of the judgment as under:

> 43. On the aforesaid touchstone readverting to the facts of the case at hand, it is imperative to note that the challenge in the Disputes before the Co-operative Court was primarily in the realm of the legality and validity of the actions of the society and its office bearers to convene the meeting, the conduct of the business in those meeting and the Resolutions passed therein, albeit in respect of redevelopment. However, the matter cannot be looked at from the perspective of the subject matter of the Resolutions only.
>
> 44. A broad proposition cannot be laid down that if the impugned Resolution pertains to redevelopment, the Co-operative Court is completely denuded of the jurisdiction to decide the legality and validity of the Resolution, even where the dispute squarely falls in the categories specified in Section 91 of the MCS Act, 1960. The Court is required to steer clear of two extremes. **One, drawing an inference of bar to the jurisdiction of the Co-operative Court no sooner the point of controversy revolves around redevelopment, dehors the nature of the challenge and the stage at which the Disputants approach the Cooperative Court. Two, allowing the Disputants to agitate the dispute before the Co-operative Court by cleverly confining the challenge to the Resolution on technical grounds of breach of statutory provisions, Rules, Bye-laws of the Society, in the matter of convening, holding and passing of Resolution in the meetings of the Society, where redevelopment is at the heart of the controversy and the process of redevelopment has gained momentum and third party rights have intervened.**

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45. To arrive at a correct resolution, the question of jurisdiction would be required to be determined in the backdrop of the facts of the given case. No straitjacket formula of universal application can be laid down. The mere fact that the Resolutions passed by the society pertain to redevelopment, by itself, cannot be the sole determinative factor.

46. If the facts of the case at hand are appraised, in the light of aforesaid principles, evidently, the first test of the parties being of the enumerated classes is unquestionably fulfilled. Since the challenge, as noted above, is primarily to the legality and validity of the notice and the Resolutions passed in the meetings of the society, on the grounds like lack of competence to convene the meeting, conduct of the meeting in breach of the governing Rules and Bye-laws, holding of the meetings in teeth of the interim orders passed by the Divisional Joint Registrar and passing of Resolution therein with a view to pre-empt and overreach the orders that might be passed by the Authorities under the MCS Act 1960, and not to the merits of the decision of the redevelopment as such, in the considered view of this Court, the fact that those Resolutions pertain to redevelopment does not per se denude the Co-operative Court of its jurisdictional competence.

47. **It is also imperative to note that it was not the case of the Petitioners that the process of redevelopment had gained momentum, in the sense that, the developer was appointed and the Development Agreement has been executed and the reliefs that may be granted by the Co-operative Court would not effectually and completely resolve the disputes presented before the Co-operative Court.** On the contrary, as noted above, the Co-operative Court had passed an interim order restraining the society and its office bearers from giving effect to and implementing the impugned Resolutions. Therefore, there was no possibility of the Disputes being rendered infructuous or conflicting orders being passed by the Co-operative Court and the Civil Court.

48. The upshot of the aforesaid consideration is that, the learned Member, Appellate Court was justified in interfering with the orders passed by the Co-operative Court and restoring the Disputes to the file of the Co-operative Court.

(emphasis and underlining added)

30) Thus, in ***Anthony Carneiro***, this Court has held that the Disputants cannot be permitted to agitate the Dispute before the Co-operative Court by cleverly confining the challenge to the Resolution on technical grounds of breach of statutory provisions, Rules, Bye-laws of the Society, in the matter of convening, holding and passing of

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Resolution in the meetings of the Society, where redevelopment is at the heart of the controversy and the process of redevelopment has gained momentum and third party rights have intervened. This Court took note of the fact that the process of redevelopment in ***Anthony Carneiro*** had not gained momentum in the facts of that case. Neither Developer was appointed nor Development Agreement was executed. Two Disputes were filed challenging legality and validity of Agenda Notice for convening General Body Meeting and alleging breach of orders passed by the Divisional Joint Registrar in convening emergency Special General Body Meeting of the society. Challenge was raised to the Special General Body Meeting convened by the society and resolution passed therein. The Co-operative Court had passed interim order staying implementation of the Special General Body Meeting Resolution. Thus, this Court held the Dispute to be maintainable before the Co-operative Court since the redevelopment process was yet to gain momentum. Thus the ratio of the judgment in ***Anthony Carneiro*** about impermissibility to agitate the Dispute before the Co-operative Court by cleverly confining the challenge to the Resolution on technical grounds of breach of statutory provisions, Rules, Bye-laws of the Society despite redevelopment being at the heart of the controversy and where the process of redevelopment has gained momentum and third party rights are created, fully applies to the facts of the present case. Here, third-party rights in the property of the society are already created in favour of the Development Manager and Financer, and the Petitioner have cleverly confined the challenge in the Dispute to non-supply of documents relating to financial capacity of the Development Manager, past projects implemented by it and other documents relating to tender process. What

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is really at the heart of the controversy in the Dispute Application is the selection, appointment of and grant of rights in favour of the Development Manager. The present case is squarely covered by ratio of the judgment in ***Baliram Misal*** and the Co-operative Appellate Court is justified in rejecting the Dispute by having recourse to the provisions of Order VII Rule 11 of the Code.

31) In ***Baliram Misal***, this Court has also taken into consideration the ratio of the judgment in ***Parimal H. Solanki*** (supra). The judgment of this Court in ***Parimal H. Solanki*** deals with the issue of jurisdiction of Co-operative Court under Section 91 of the MCS Act to decide the Dispute concerning redevelopment of building of the society after coming into effect of the 2019 Amendment Act. Prior to the 2019 Amendments, this Court had repeatedly held in ***Vardhaman Developer Ltd Vs. Thailambal CHS Ltd***[5], ***Mohinder Kochar Vs. Mayfair Housing***[6] and ***Maya Developers Vs. Rajkumar L. Nagda***[7] that redevelopment of building of the society did not constitute business of the society within the meaning of Section 91 of the MCS Act. However, the 2019 Amendments to the MCS Act inserted a special chapter XIII-B in the MCS Act and the same brought about a change in definition of the term '*housing society*' which now includes 'redevelopment' as one of the objects of the society. An argument was raised before this Court in ***Parimal H. Solanki*** that the judgments earlier rendered on the aspect of redevelopment constituting business of the society were no longer a good law after coming into effect of the 2019 Amendments. This Court,

[5] Order dated 7th March 2011 in Notice of Motion No.3274 of 2010
[6] (2012) 6 Bom CR 194
[7] (2016) 6 Bom CR 629

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however, held in ***Parimal H. Solanki*** that the 2019 Amendments merely introduced an enabling provision in the MCS Act where society can amend its bylaws to bring the same in line with definition of the term '*housing society*' under Section 154B-1(17) of the Act. This Court further held that only if the bylaws of the society were amended and redevelopment was made an object of the society, Dispute concerning redevelopment could be maintained under Section 91 of the MCS Act. This Court held in paras-54, 56, 57 and 61 of the judgment in ***Parimal H. Solanki*** as under:

> 54. The Amending Act of 2019 only brought above a change in the definition of "*Housing Society*" which now included redevelopment as one of the objects of the Society. However, Section 154B-31 clearly provided that inter alias, the Bye-Laws applicable to the Housing Society existing on the date of the Amending Act, to continue to be applicable, until expressly repealed, modified or amended. It is an admitted position that the Bye-Laws of the Plaintiff No. 1 Society have not been expressly repealed, modified or amended subsequent to the Amending Act of 2019 and would thus continue to apply to the Plaintiff No. 1 Society. This saving of existing Bye-Laws has been expressly brought in the Amending Act of 2019. The existing Bye-Laws of the Plaintiff No. 1 Society does not have "*redevelopment*" as one of the objects of the Society. Thus, I do not find merit in the contention on behalf of the Defendants that subsequent to the commencement of the Amending Act of 2019, the Bye-Laws are required to be read as if it includes redevelopment as one of the objects of the Plaintiff No. 1-Society. If this contention on behalf of the Defendants is upheld, the said saving provision in the Amending Act of 2019 would be rendered nugatory. In view of the said saving provision, the Bye-Laws of the Society would necessarily have to be amended to bring it in line with the definition of "*Housing Society*" under Section 154B-1(17).
>
> 56. Thus, the dispute relating to the "*business of the Society*" which is to be referred by any of the parties to the dispute to the Co-operative Court necessarily would require redevelopment to be the "*business of the Society*". This would have to be seen from the Bye-Laws of the Society as to whether redevelopment has been included in the Bye-Laws. The submission of Mr. Madon that the definition of "*Housing Society*" is an enabling provision and does not make redevelopment an object or business of the Society unless the Society actually amends its Bye-Laws to include redevelopment as one of its objects, is required to be accepted. In the present case, it is an admitted position that the Bye-Laws of the Society do not have redevelopment as an

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> object. This can also be seen from the existing Bye-Laws of the Society tendered by Mr. Madon pursuant to the advocates for the Defendants calling upon the Plaintiffs to produce the Bye-Laws. It is no-one's case that subsequent to Amending Act of 2019, the Plaintiff No. 1-Society has amended its Bye-Laws for inclusion of redevelopment as one of its object.
>
> 57. Thus, in my view, since redevelopment is not one of the objects of the Plaintiff No. 1-Society, as per the Bye-Laws of the Plaintiff No. 1-Society, it cannot be said to be the business of the Society.
>
> 61. I am not impressed with the arguments on behalf of the Defendants that *Maya Developers* (supra) being prior to the Amending Act of 2019, is no longer good law, as it is considering the provisions which have undergone a change in law. In my view, as Section 91 of the MCS Act has not undergone any change, Maya Developers (supra) is very much still applicable, particularly, in view of the directive under Section 79A continuing to be excluded from Section 91(1)(c) of the MCS Act. The purpose and ambit of Section 79A and Section 45 as held in *Maya Developers* (supra) are entirely distinct. They operate in different fields. Section 79A is a broad-based State power to be used in the public interest. One cannot read Section 79A into Section 45 as has been sought to be contended on behalf of the Defendants.

32) In ***Baliram Misal***, also a contention was raised that there is change in law post the delivery of judgment in ***Parimal H. Solanki*** and that all Dispute Applications concerning redevelopment of society's buildings are not maintainable before the Cooperative Court. In ***Baliram Misal***, there was complete absence of pleadings in the Dispute Application about redevelopment being object or business of the society therein. In the present case as well, there is total absence of any pleading that bylaws of the society have been amended so as to include redevelopment as business of the society. This Court held in ***Baliram Misal*** thus:

> 13. More importantly, in the entire plaint, there is no averment that redevelopment of Society's building is the object or business of the Respondent-Society. Thus, perusal of the pleadings in the Dispute filed by the Petitioner would clearly indicate that the same lacks necessary averments for the purpose of retaining jurisdiction of Co-operative Court under Section 91 of

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> the MCS Act. This factor is in fact sufficient for upholding the orders passed by the Cooperative Court and the Appellate Court directing rejection of the dispute.
>
> 14. However, Mr. Agarwal has relied upon three judgments of this Court in support of his contention that the law has undergone a change post the judgment in Parimal H. Solanki and that therefore the dispute challenging the resolutions passed by Society for implementation of redevelopment process now clearly falls in the realm of challenge before the Cooperative Court under the MCS Act. On the other hand, Mr. Shingade has relied on two judgments of this Court to counter the submission of Mr. Agrawal and in support of his contention that it is impermissible to segregate challenges relating to resolutions and those relating to redevelopment agreement and to institute separate proceedings before the Cooperative Court and the Civil Court.

After considering the judgments post ***Parimal Solanki***, this Court held in ***Baliram Misal*** that the Dispute would not lie before the Cooperative Court.

33) Thus, a Disputant before the Co-operative Court under Section 91 who desires to maintain challenge to the redevelopment process needs to incorporate a positive averment in the Dispute Application that after introduction of the 2019 Amendments, bylaws of the society have been amended so as to include redevelopment as business of the society. Once such an averment is made, whether there is truth in such averment or not may become a subject matter of trial. However, following the law declared by this Court in ***Parimal H. Solanki***, if there is no averment in the plaint about amendment or bylaws of the society for including redevelopment as the business of the society, the Dispute Application can be rejected by having recourse to Order VII Rule 11 of the Code.

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34) Therefore, for maintaining a Dispute filed under Section 91 of the MCS Act challenging any decisions relating to redevelopment process, the Dispute Application must contain (i) a positive statement that post enactment of the MCS (Amendment) Act, 2019, the bylaws of the society have been amended so as to include redevelopment as the business of the society, and (ii) a positive statement that no redevelopment agreement and/or any other document has been executed creating right, title or interest in favour of a third party in the society's property. If either of the two averments are absent, there would be a bar to entertain the Dispute Application, which would become vulnerable to rejection under Order VII Rule 11 of the Code.

35) It would, therefore, be necessary to clarify that harmonious reading of the ratio of judgments of this Court in ***Parimal Solanki***, ***Baliram Misal*** and ***Anthony Carneiro*** indicates that a Dispute under Section 91 of the MCS Act can be maintained before the Co-operative Court when the same contains a challenge to any decision in redevelopment process only if following conditions are satisfied:

(i) Redevelopment is included as business of the society by amending the bylaws of the society after introduction of the 2019 Amendments to the MCS Act.

(ii) No right, title or interest is created in favour of a third party in the property of the society.

(iii) Specific averments are made in the Dispute Application about the above two positions.

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36) If the bylaws are not amended so as to include redevelopment as business of the society, dispute challenging decisions relating to redevelopment would not be maintainable before the Co-operative Court irrespective of the stage at which the redevelopment process is. In other words, even if rights are yet to be created in the property of the society in favour of third parties, if redevelopment is not the business of the society, there would be a bar to maintainability of Dispute under Section 91 of the MCS Act. If redevelopment is included as business of the society by amending the bylaws, Dispute challenging the redevelopment process would be maintainable only if the same is filed before creation of right, title or interest in the society's property in favour of a third party. If the Dispute is filed after execution of Development Agreement or any other document in favour of a developer/contractor/consultant by which any right, title or interest is created in their favour in the society's property, even if redevelopment forms part of business of the society on account of amendment of bylaws, such Dispute will not lie before the Co-operative Court in view of ratio of the judgment of the Apex Court in ***Margret Almeida***. This is because once third-party rights are created, such third-party rights get affected by outcome of the Dispute before the Co-operative Court. Such third parties cannot be impleaded in the Dispute since interest in society's properties is created before filing of the Dispute and as per the provisions of Section 94 (3) of the MCS Act, as interpreted in ***Margret Almeida***, there is prohibition on impleadment of third parties to the Dispute who have acquired interest in society's property before filing of the Dispute. Therefore, once interest is created in the property of the society, Dispute under Section 91 of the MCS Act would not lie before the

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Co-operative Court even if society's bylaws are amended and redevelopment is included as business of the society.

37) In the present case, there is no averment in the Dispute Application that redevelopment of the building is its business in accordance with amendment to the byelaws post introduction of 2019 Amendment. Additionally, right, title and interest are created in favour of Development Manager and Financer by virtue of Agreements dated 8 October 2024 and 31 March 2025. The Dispute is filed on 13 February 2026 i.e., after creation of interest in the society property in favour of third parties who cannot be impleaded in the dispute. Therefore, on both counts, the Dispute filed by Petitioners cannot lie before the Co-operative Court.

38) In my view therefore, the Co-operative Appellate Court has rightly allowed the A.O. No.45 of 2026 filed by the Respondents and has rightly dismissed the Dispute of the Petitioners by having recourse to Order VII Rule 11 of the Code.

39) So far as Writ Petition No. 11719 of 2026 is concerned, the same is rendered infructuous in the light of the fact that the Dispute itself is held to be not maintainable. Therefore, there is no question of Petitioners securing any interim injunction in the Dispute. They will have to file a Civil Suit and seek temporary injunction therein. Therefore, Writ Petition No. 11719 of 2026 also deserves to be dismissed.

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40) In view of the above discussion, both the Writ Petitions are **dismissed**. However, there shall be no order as to costs.

[SANDEEP V. MARNE, J.]

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