

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

WRIT PETITION NO. 8735 OF 2026

Shantiniketan Industrial Premises

Co-operative Society Ltd.,

Through its Authorized Representative Member

Shri. Bharat Jeram Thakker

..... Petitioner

: Versus :

1. The Divisional Joint Registrar

Co-operative Societies, Mumbai Division

2. The Deputy Registrar, Co-operative

Societies, K-East Ward, Mumbai

3. M/s. Dipti Builders Universal Pvt. Ltd.

(Formerly known as M/s. Dipti Builders)

4. State of Maharashtra, through Hon'ble

Minister for Co-operation

....Respondents

Mr. Atul Damle, Senior Advocate with *Mr. Prashant Kulkarni, Ms.*

Rachana Mamnani and Mr. Sanjay Kotak, for the Petitioner.

Mr. Vishal Kanade with *Mr. Yash Tiwari i/b. Mr. Y.K. Tiwari, for*
Respondent No.3.

Mr. A.C. Bhadang, AGP for the State.

CORAM : SANDEEP V. MARNE, J.

JUDG. RESD. ON : 8 SEPTEMBER 2026.

JUDG PRON. ON : 18 SEPTEMBER 2026.

JUDGMENT:

1) The Petitioner-society has filed the present petition challenging the Order dated 2 September 2011 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai, (**Divisional Joint Registrar**) allowing Appeal No. 217/2010 filed by Respondent No.3 and setting aside Order dated 9 November 2009 of the Deputy Registrar granting registration in respect of the Petitioner-society. The Order passed by the Divisional Joint Registrar has been confirmed by the Hon'ble Minister (Cooperation) by rejecting Revision Application No. 394/2024 vide order dated 6 April 2026, which is also the subject matter of challenge in the present petition.

2) M/s. Mount Industrial Estate (**the developer**) took up for development land bearing CTS No.709 admeasuring 7638 sq.yds. situated at Survey No.48, Hissa No.2, Village-Marol, Andheri (East), Mumbai. The developer constructed industrial units on the land. As per permission granted by the Municipal Corporation, two buildings were constructed on Plot bearing CTS No.709 viz. 'Shantiniketan Industrial Estate' comprising of 42 units/galas and 'Sahajeevan Industrial Estate' comprising of 24 units/galas. The developer executed individual Agreements for Sale of industrial units with the purchasers. It appears that in the year 2008, partner of M/s. Mount Industrial Estate assigned his share in the firm in favour of Respondent No.3 (*M/s. Dipti Builders Universal Pvt. Ltd.*) and this is how Respondent No.3 started claiming rights in respect of the units in the building-Shantiniketan Industrial Estate. The flat purchasers called upon the developers to register the society. Since there was no response, some of the unit purchasers came together and submitted a proposal for

formation and registration of the Petitioner-society. By Certificate of Registration dated 9 November 2009 issued by the Assistant Registrar of Co-operative Societies, Petitioner-society was registered as Shantiniketan Industrial Premises Cooperative Society Limited.

3) Respondent No.3 filed Appeal No.217/2010 before the Divisional Joint Registrar, challenging the Registration Certificate dated 9 November 2009. The Appeal was opposed by the Petitioner. However, by order dated 11 November 2010, the Divisional Joint Registrar condoned the delay in filing the Appeal. The Petitioner thereafter filed additional reply opposing the Appeal on merits. The Divisional Joint Registrar, however, proceeded to allow the Appeal of Respondent No.3 by order dated 2 September 2011 and set aside the Certificate of Registration dated 9 November 2009. It appears that the Petitioner-society did not immediately take steps for challenging order dated 2 September 2011 passed by the Divisional Joint Registrar. It is only in the year 2024 that Petitioner-society filed Revision Application No. 394 of 2024 challenging the order of the Divisional Joint Registrar. The Hon'ble Minister has however dismissed the Revision Application by order dated 6 April 2026, which is also the subject matter of challenge in the present petition.

4) Mr. Damle, the learned Senior Advocate appearing for the Petitioner-society, submits that the Hon'ble Minister has grossly erred in dismissing the Revision and confirming the Order of the Divisional Joint Registrar. He submits that Respondent No.3 did not have *locus* to oppose the Revision Application as it has already sold all the units belonging to

him in the year 2013. That Respondent No.3 is left with no interest in the building of the society. He submits that the proposal for registration of the society fulfilled the requirements of Section 6 of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**). That partnership firm and companies cannot be treated as persons belonging to one family. That even HUF cannot be treated as person being a member of the same family. He relies on provisions of Section 22 of the MCS Act in support of his contention that partnership firm, company and HUF can be separately admitted as members. He submits that both Divisional Joint Registrar and Hon'ble Minister have grossly erred in not appreciating this position. That society's affairs are being managed for the last 17 long years by the society and cancellation of its registration will create severe difficulties in management of the society's affairs. Mr. Damle submits that provisions of Chapter XIII-B also apply to commercial premises society and relies on judgment of this Court in **Mukesh Mehta Versus. State of Maharashtra**¹. He relies on judgment of this Court in **Aurum Avenue CHSL vs. State of Maharashtra and Ors.**² in support of his contention that when there is no misrepresentation or fraud in registration of the society, the registration cannot be cancelled due to mere procedural lapses. He relies on judgment of this Court in **Om Sai Pratibha CHSL vs. State of Maharashtra and Ors.**³ in support of his contention that developer can never be permitted to challenge registration of a society. Mr. Damle prays for setting aside the impugned orders passed by the Divisional Joint Registrar and the Hon'ble Minister, Cooperation.

¹ 2024 SCC Online Bom 1296

² 2025 SCC Online Bom 709

³ 2002 (5) Bom.C.R. 177

5) Mr. Kanade, the learned counsel appearing for Respondent No.3 opposes the Petition and supports the Order passed by the Divisional Joint Registrar and the Hon'ble Minister. He submits that filing of the Petition in the name of the society, of which registration is cancelled on 2 September 2011, itself is erroneous. That the Revision was filed after delay of 4649 days, which ought to have been dismissed only on the ground of delay. Nonetheless, the same is dismissed on merits. He submits that the persons who filed the proposal for registration were clearly members of the same family. That Section 6 of the MCS Act consciously uses the word 'person' and not 'member'. That HUF can always be formed of only family members. He submits that since 10 independent and unconnected unit purchasers did not file proposal for registration of the society, the registration is rightly cancelled. That despite Respondent No.3 owning four flats, he was not informed of proposal for registration of the society. That the registration process was itself illegal. That despite sale of units by Respondent No.3 in the year 2013, he was still impleaded by the Petitioner in the Revision Application, and therefore he had a right to oppose the same. That in any case, subsequent sale of the premises by Respondent No.3 is an irrelevant factor for deciding the validity of registration granted in the year 2009. He prays for dismissal of the Petition.

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

7) It appears that the developer constructed the building Shantiniketan Industrial Estate comprising of 42 units/galas. After demanding registration of a society, the unit purchasers came together and submitted a proposal/application for registration of a society. The application was shown to have been signed by 20 persons. The Deputy Registrar proceeded to grant registration in favour of the society by order dated 9 November 2009. At the time of registration of the society, it appears that Respondent No.3 had secured assignment in respect of unsold premises from the developer. It was the complaint of Respondent No.3 that application for registration of the society was filed without its information and consent. Therefore, Respondent No.3 filed Appeal No. 217/2010 challenging the order of the Assistant Registrar dated 9 November 2009. By order dated 2 September 2011, the Divisional Joint Registrar allowed the Appeal preferred by Respondent No.3 by concluding that out of the 20 promoters, who submitted application for registration of the society, same persons were owning multiple premises and therefore only five promoters had submitted the application. Therefore, the Divisional Joint Registrar proceeded to cancel the registration on account of violation of the requirements specified in Section 6 of the MCS Act. Therefore, it would be apposite to take into consideration the provisions of Section 6 of the MCS Act, which are as under:

6. Conditions of registration.—

(1) No society, other than a federal society, shall be registered under this Act, unless it consists of at least ten persons or such higher number of persons as the Registrar may, having regard to the objects and economic liability of a society and development of the co-operative movement, determine from time to time for a class of societies, (each of such persons being a member of a different

family), who are qualified to be members under this Act, and who reside in the area of operation of the society :

Provided that, a lift irrigation society consisting of less than ten but of five or more such persons may be registered under this Act:

Provided further that, the condition regarding residence of the members in the area of operation of the society shall not apply for registration of the society, being the co-operative credit structure entity:

Provided also that, the Registrar may specify the norms and conditions for registration of societies or class of societies.

(2) No society with unlimited liability shall be registered, unless all persons forming the society reside in the same town or village, or in the same group of villages.

(2A) No crop protection society shall be registered, unless the Registrar is satisfied, after such inquiry as he thinks necessary, that a draft of the proposal made by the society for protecting the crops, structures, machinery, agricultural implement and other equipment such as those used for pumping water on the land, was duly published for inviting all owners of lands likely to be affected by the proposal and all other persons likely to be interested in the said lands to join the proposal or to send their objections or suggestions and that the objections and suggestions received, if any, have been duly considered by the society and that the owners in possession of not less than 66 per cent., in the aggregate of the lands included in the proposal have given their consent in writing to the making of the proposal and that the proposal made is feasible. For this purpose, the society shall submit to the Registrar :—

- (a) a plan showing the area covered by the proposal and the surrounding lands as shown in the map or maps of the village or villages affected;
- (b) an extract from the record of rights duly certified showing the names of the owners of the lands and the areas of the lands included in the proposal;
- (c) statements of such of the owners of the lands as consented to the making of the proposal signed by owners before two witnesses;
- (d) a detailed estimate of the cost of implementing the proposal;
- (e) a detailed statement showing how the cost is proposed to be met.

When such society is registered, the cost of implementing the proposal shall be met wholly or in part by contribution to be levied by the society from each owner of the land included in the proposal, including any such owner who may have refused to become a member of the society. The owner of every land

included in the proposal shall also be primarily liable for the payment of the contribution leviable from time to time in respect of such land.

(3) No federal society shall be registered, unless it has at least five societies as its members.

(4) Nothing in this Act shall be deemed to affect the registration of any society made before the commencement of this Act.

(5) The word “limited” or “unlimited” shall be last word in the name of every society with limited or unlimited liability, as the case may be, which is registered or deemed to be registered under this Act.

Explanation.— For the purposes of this section and section 8, the expression “member of a family” means a wife, husband, father, mother, son, or unmarried daughter.

8) Thus, under Section 6 of the MCS Act, no society can be registered under the Act unless it consists of at least 10 persons who are qualified to be the members under the Act and who reside in the area of operation of the society. Section 6(1) however imposes a condition that such persons need to be members of different families. Section 6(1) also uses the words ‘persons’ and ‘members’ for different purposes. Firstly, it specifies that at least 10 ‘persons’ must come together and that each of such persons cannot be a member of same family. They need to be members of different families. This is the first requirement of 10 persons belonging to different families coming together for formation of a society. Thereafter, the second requirement needs to be fulfilled i.e. such ‘persons’ must fulfill the qualification required for being ‘member’ under the Act. The qualification for being ‘member’ is specified in Section 22 of the MCS Act. In the present case, the latter condition of fulfillment of qualification of a ‘member’ is neither disputed nor is relevant. This is

because the objection is that 10 'persons' belonging to different families did not file application for registration of the society.

9) Perusal of the application filed in Form A would indicate that there are names and signatures of 20 promoters. However, name of Mr. Ajit Thakker appears at serial nos. 4 and 19. Similarly, name of Velankani Info Systems appears at serial nos. 2, 3, 7, 10, 12, 16 and 17. Name of Mr. Bharat Thakker appears at serial nos. 5, 9, 11, 13, 14 and 15. The name of Maya Developers appears at serial nos. 6 and 18. Therefore, these persons/entities are required to be counted only once for fulfillment of condition of 10 persons not being members of the same family. Thus, there were only 7 promoters. Thus, the condition of 10 persons not being members of same family applying for registration of the society is not fulfilled in the present case. The Divisional Joint Registrar has rightly set aside the order of Deputy Registrar dated 9 November 2009.

10) Mr. Damle's reliance on provisions of Section 22 of the MCS Act does not cut any ice. As observed above, fulfillment of qualification as a 'member' is an additional condition over and above the requirement of 10 'persons' not belonging to same family. May be the Divisional Joint Registrar is not entirely right in treating Mr. Bharat Thakker as the 'owner' of the firm (*Morarji Peraj & Co.*). Similarly, he may not be entirely right in treating Ms. Ameeta Thakker being the co-owner of Maya Developers and wife of Mr. Bharat Thakker. If Maya Developers is a partnership firm, the same can be an independent entity and cannot be treated as a family member under Section 6. There cannot be any owner

in respect of a firm. However, even if Maya Developers and Morarji Peraj & Co. are treated as separate and distinct entities, still the requirement under Section 6 of 10 persons applying for registration of the society is not fulfilled in the present case. In my view therefore, the Divisional Joint Registrar and the Hon'ble Minister have rightly ruled against the Petitioner.

11) What is disturbing in the present case is that the registration of the society was cancelled on 2 September 2011 on account of order passed by the Divisional Joint Registrar. However, no steps were taken for challenging the order dated 2 September 2011 for the 13 long years. The society thus became a non-existent entity after 2 September 2011. Despite this, a Revision was filed in the year 2024 in the name of a non-existent entity after a period of 13 long years. There were two problems in the Revision. Firstly, it suffered from gross delay of 13 long years. Secondly, it was filed in the name of a non-existent entity. Despite this, the Hon'ble Minister, Cooperation proceeded to decide the Revision on merits. Be that as it may. Since this Court is satisfied with the ultimate conclusion of the Hon'ble Minister, it is not necessary to delve deeper into the aspects of delay and incapacity to file revision by a non-existent entity.

12) Even filing of the present petition in the name of non-existent entity is clearly erroneous. The society's registration has been cancelled by the Divisional Joint Registrar by order dated 2 September 2011. After 2 September 2011, the registration has not been revived. Also

there was no stay to the order dated 2 September 2011. In these circumstances, the Petition could not have been filed in the name of a non-existent entity.

13) The contention of Mr. Damle that Respondent No.3 does not have locus to challenge the registration of the society is without substance. The sale of units by Respondent No.3 has occurred in the year 2013 whereas it had preferred Appeal in the year 2010. Therefore, locus of Respondent No.3 to maintain the Appeal in the year 2010 cannot be decided on the basis of subsequent events of 2013.

14) Mr. Damle's reliance on judgment of this Court in ***Om Sai Pratibha CHSL*** (supra) in support of his contention of impermissibility for a developer to challenge registration of a society is also inapposite. The judgment does not lay down an abstract principle of law that a developer can never file an Appeal against registration of a society. In any case, Respondent No.3 was a mere assignee in respect of some of the units and did not really wear the hat of a developer. In any case, if the society was irregularly formed in absence of fulfillment of requirement of submission of proposal by 10 persons not being members of same family, Respondent No.3 was justified in challenging the registration of the society.

15) Mr. Damle's reliance on judgment of this Court in ***Aurum Avenue CHSL*** (supra) is also inapposite as the judgment deals with the concept of de-registration of the society under Section 21A of the MCS

Act. For seeking de-registration, it is necessary to demonstrate existence of one out of the four enumerated circumstances under Section 21A. One of the grounds for seeking de-registration is misrepresentation. However, for challenging registration of a society by filing an Appeal under Section 152 of the MCS Act, it is not necessary to demonstrate existence of any fraud or misrepresentation. Even a procedural irregularity or failure to meet the requirement of Section 6 can be a ground for setting aside registration of a society by allowing the Appeal preferred by the objector.

16) Mr. Damle has relied upon judgment of this Court in ***Mukesh Mehta*** which is an authority on the principle that provisions of Chapter XIII-B would apply even to '*other housing societies*' including industrial premises society. As a matter of fact, the judgment actually militates against the Petitioner as in para-21 of the judgment, this Court has held as under:

21. Thus, for registration of a society, the minimum number of eligible persons required are 10, with a further caveat that each such person must be a member of different family. Section 8 provides for mode of making an application for registration of society and Section 9 provides for grant of registration to a society.

17) Mr. Damle has submitted that cancellation of registration of the society would create difficulties in management of the affairs of the building. However, the registration has been cancelled 15 years back on 2 September 2011. If the unit purchasers were desirous of collective management of the building through a valid society, they ought to have either challenged the order dated 2 September 2011 or ought to have filed a fresh proposal for registration of the society. However, for the last 15

long years, the unit purchasers have not taken any steps for formation of a new society. Even now, a proposal for formation of a new society can always be filed.

18) Considering the overall conspectus of the case, I am of the view that no case is made out for interference in the impugned orders passed by the Divisional Joint Registrar and the Hon'ble Minister, Co-operation. The Writ Petition is devoid of merits. It is accordingly dismissed with no order as to costs.

[SANDEEP V. MARNE, J.]

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