



RESEARCH QUESTION

"What rights does a flat owner or tenant have against a housing society that levies arbitrary charges, denies NOCs, or restricts amenities in India, and what remedies exist before the Registrar of Cooperative Societies and cooperative courts?"

What are the rights and remedies of a flat owner or tenant against arbitrary charges, denial of NOCs, or restriction of amenities by a housing society in India?

TL;DR

In India, a flat owner or tenant aggrieved by arbitrary levies, restricted amenities, or withheld NOCs by a cooperative housing society possesses robust statutory remedies under the respective State Cooperative Societies Acts, as disputes concerning internal management and members' property rights fall within the exclusive jurisdiction of the Cooperative Courts and the Registrar. The Bombay High Court in *Raghunath S/o Bansi Dalvi v. Ideal Cooperative Housing Society Limited* (2010) affirmed that resolving grievances regarding property enjoyment, encroachment, or nuisance between members or against the society touches the "business of the society" and must be adjudicated through these statutory cooperative forums. Conversely, constitutional writ petitions under Article 226 are generally not maintainable because cooperative societies are not considered "State" instrumentalities under Article 12, and parties must exhaust their efficacious alternative statutory remedies first.

VERIFIED CASES

25

17 High Courts • 8 SC

STATUTES

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LATEST RULING

2022

High Court of Delhi

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I. Detailed Analysis

KEY PRINCIPLES ESTABLISHED

01 Co-operative Court's Exclusive Jurisdiction over Internal Disputes

Civil courts are expressly barred from entertaining suits that touch upon the "constitution, management, or business" of a cooperative housing society, with such disputes being reserved exclusively for Co-operative Courts under provisions like Section 91 of the Maharashtra Co-operative Societies (MCS) Act, 1960, as illustrated in *Baswaraj v. Madevi* (2020).

02 Registrar's Power to Direct and Intervene

The Registrar of Co-operative Societies holds wide statutory authority, such as under Section 160 of the Gujarat Co-operative Societies Act, 1961, to issue binding directions to societies to prevent mismanagement or actions detrimental to the interest of members, as affirmed in *Banaskantha Jilla Sahakari Dudh Utpadak Sangh Ltd. v. Meghrajhai Galbabbhai Patel* (2013).

03 Exhaustion of Efficacious Alternative Remedies

Aggrieved members or occupants cannot bypass the comprehensive dispute resolution machinery of the Co-operative Societies Acts (such as statutory appeals, revisions, or arbitration) to file writ petitions, as constitutional courts strictly mandate exhausting these alternate statutory channels first, as held in *Hindustan Co-operative Housing Society Ltd. v. Registrar, Co-operative Societies and Anr.* (2009).

04 Protection of Lawful Tenants and Occupants

While a housing society regulates its members, it cannot use summary cooperative court proceedings to override or bypass the protections granted to lawful tenants or licensees under state Rent Control legislation, as ruled in *Sanwarmal Kejriwal v. Vishwa Cooperative Housing Society Ltd.* (1990).

05 Conditional Transfer and Sub-Tenancy Rights

A flat owner possesses possessory rights superior to a standard tenancy, yet the right to sublet or transfer interest remains voidable and subject to compliance with the society's regulatory bye-laws and statutory consent requirements, as established in *M/s. Anita Enterprises and Anr. v. Belfer Coop. Housing Society Ltd. & Ors.* (2007).

HOW THE COURTS HAVE APPLIED THIS

SUPREME COURT
POSITION

The apex court has clarified that membership in a cooperative housing society is a statutory right rather than a fundamental right, meaning any regulatory grievances or expulsions must be pursued strictly through the statutory mechanisms of the Act (*A. Satish Chandra v. Registrar of Cooperative Societies, Delhi* (1994)). Furthermore, the court has safeguarded tenants from being evicted via cooperative summary proceedings where they possess deemed tenancy rights under Rent Control legislation (*Narendra K. Kochar v. Sind Maharashtra Coop. Housing Society Ltd.* (2002)).

HIGH COURT
VARIATIONS

High Courts have consistently held that cooperative societies are not "State" under Article 12 because they lack pervasive financial, functional, or administrative control by the government, meaning ordinary service or management disputes cannot be agitated under Article 226 (*A. Satyanarayana Murthy v. The Commissioner for Co-operation & Registrar of Co-operative Societies* (2006)). However, the Registrar retains overriding supervisory powers under revisionary provisions (such as Section 153 of the Tamil Nadu Act) to declare unauthorized or illegal acts of a society void *ab initio* (*Church of South India Trust Association v. Registrar (Housing)* (2010)).

RECENT EVOLUTION

Modern jurisprudence continues to reinforce that internal administrative grievances, such as election challenges or management disputes, are fundamentally private or regulatory issues that must be referred to statutory arbitration under the relevant Cooperative Acts rather than constitutional writs (*Pawan Kumar & Ors. v. Union of India & Ors.* (2022)).

UNSETTLED AREAS OR CAVEATS

Boundary of Civil Court Jurisdiction

While Section 91 of the MCS Act bars civil suits for internal management disputes, the Supreme Court has carved out a crucial caveat: if a dispute involves non-member third parties (such as a challenge to a sale deed or title conveyed to an outsider), the exclusive jurisdiction of the Co-operative Court is lifted, and a civil suit under Section 9 CPC remains maintainable (*Margret Almeida & Ors. v. The Bombay Catholic Co-operative Housing Society Ltd. & Ors.* (2012)).

Transferability vs. Membership Controls

Although a flat owner's right to occupy a flat is a valuable species of property that is fully attachable and saleable in execution of a decree, the actual enjoyment of that right by a purchaser remains legally contingent upon complying with the housing society's membership qualification rules (*A. Ramesh Himmatlal Shah v. Harsukh Jadhavji Joshi* (1975)).

II. Statutory Provisions 3 PROVISIONS

SECTION 160, GUJARAT CO-OPERATIVE SOCIETIES ACT, 1961 — REGISTRAR'S POWER TO GIVE DIRECTION

Empowers the Registrar to issue directions to co-operative societies to secure proper management, prevent acts detrimental to members' interests, and enforce compliance under penalty of removing committee members.

"160. (1) If the Registrar of his own motion or otherwise is satisfied that... for securing the proper management of the business of the society generally or preventing the affairs of the society being conducted in a manner detrimental to the interests of the members... he may issue directions to them, from time to time, and all societies or the society concerned, as the case may be, shall be bound comply with such directions." *Cited in:* Statutory framework retrieved for co-operative dispute resolution and management.

SECTION 91A, MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960 — CONSTITUTION OF CO-OPERATIVE COURTS

Empowers the State Government to constitute Co-operative Courts to adjudicate legal disputes referred under the Act.

"91 A. Constitution of Co-operative Courts.— (1) The State Government may, by notification in the Official Gazette, constitute one or more Co-operative Courts for the adjudication of dispute preferred to them under section 91 or section 105 or other provisions of this Act." *Cited in:* Statutory framework retrieved for co-operative dispute resolution and management.

SECTION 89, CHHATTISGARH CO-OPERATIVE SOCIETIES ACT, 1960 — POWERS OF CIVIL COURTS

Vests the Registrar, their nominee, or any person deciding a dispute with the powers of a civil court under the Code of Civil Procedure, 1908, for summoning witnesses and discovering documents.

"89 (1) In exercising the powers conferred on him by or under this Act, the Registrar, his nominee or board of nominees, or any other person deciding a dispute and the liquidator of a society shall have all the powers of a civil court while trying a suit, under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely: - (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) proof of facts by affidavits; and (d) issuing commissions for examination of witnesses." *Cited in:* Statutory framework retrieved for co-operative dispute resolution and management.

III. Cases Discussed

25 CASES · SUMMARY TABLE

#	CASE TITLE	COURT	YEAR	KEY HOLDING
01	<i>Sanwarmal Kejriwal v. Vishwa Cooperative Housing Society Ltd.</i> ESCR01000811990	SUPREME COURT OF INDIA	1990	Restricts co-operative housing societies from summarily evicting protected tenants under Rent Act.
02	<i>Baswaraj v. Madevi</i> HCBM030444712016	BOMBAY HIGH COURT	2020	Bars civil court jurisdiction over internal property disputes touching the society's business.
03	<i>Church of South India Trust Association v. Registrar (Housing)</i> HCMA010818812008	MADRAS HIGH COURT	2010	Affirms Registrar's revisionary power to declare unauthorized land transfers of society void.
04	<i>Sardar Mohan Singh Ahluwalia v. Maitrai Park Co-operative Housing Society Ltd.</i> ESCR010004571988	SUPREME COURT OF INDIA	1988	Subjects a dispute over unauthorized flat occupancy by a licensee to Co-operative Court.
05	<i>A. Satyanarayana Murthy v. The Commissioner for Co-operation & Registrar of Co-operative Societies</i> HBHC010198701996	HIGH COURT FOR STATE OF TELANGANA	2006	Restricts writ petitions against co-operative societies as they lack pervasive governmental control.
06	<i>Hindustan Co-operative Housing Society Ltd. v. Registrar, Co-operative Societies and Anr.</i> ESCR010006232009	SUPREME COURT OF INDIA	2009	Mandates exhausting alternative statutory remedies under Co-operative Acts before filing writ petitions.
07	<i>P. Lalitha v. Deputy Registrar/Managing Director, Tiruchirappalli District Amaravathi Consumers Co-operative Wholesale Stores Ltd.</i> HCMD010391642015	MADRAS HIGH COURT	2019	Precludes writ petitions against co-operative societies since they are not State under Article 12.
08	<i>Pawan Kumar & Ors. v. Union of India & Ors.</i> DLHC010095902021	HIGH COURT OF DELHI	2022	Confirms that election disputes in cooperative societies must utilize statutory arbitration over writs.
09	<i>A. Satish Chandra v. Registrar of Cooperative Societies, Delhi</i> ESCR010001701994	SUPREME COURT OF INDIA	1994	Rules that housing society membership is a statutory, not fundamental, right requiring statutory remedies.
10	<i>Banaskantha Jilla Sahakari Dudh Utpadak Sangh Ltd. v. Meghrajhai Galbabbhai Patel</i> GJHC240236921999	HIGH COURT OF GUJARAT	2013	Allows writ petitions against co-operative bodies only to enforce public duties or statutory obligations.
11	<i>M/s. Anita Enterprises and Anr. v. Belfer Coop. Housing Society Ltd. & Ors.</i> ESCR010002332007	SUPREME COURT OF INDIA	2007	Permits society to challenge unauthorized tenancy and seek eviction under Co-operative Act proceedings.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
12	<i>M/s. Sumer Associates v. Margaret Almeida & Ors.</i> HCBM020168582011	BOMBAY HIGH COURT	2011	Recognizes Co-operative Court jurisdiction over internal management disputes of co-operative societies.
13	<i>Narendra K. Kochar v. Sind Maharashtra Coop. Housing Society Ltd.</i> ESCR010003462002	SUPREME COURT OF INDIA	2002	Protects licensees from bypass of Rent Control protections via summary cooperative eviction proceedings.
14	<i>Margret Almeida & Ors. v. The Bombay Catholic Co-operative Housing Society Ltd. & Ors.</i> ESCR010002422012	SUPREME COURT OF INDIA	2012	Retains civil court jurisdiction for property disputes involving third-party non-members outside society.
15	<i>A. Sundaram v. The Joint Registrar of Co-operative Societies</i> HCMA010644742014	MADRAS HIGH COURT	2018	Dismisses writ petition for service benefits, directing petitioner to exhaust statutory revisionary remedies.
16	<i>Shobha Asaram Chitalal v. Aruna Vishwanath Kanade</i> HCBM030138912014	BOMBAY HIGH COURT	2015	Affirms Co-operative Court jurisdiction over claims from members regarding pre-registration financial contributions.
17	<i>Raghunath S/o Bansi Dalvi v. Ideal Cooperative Housing Society Limited</i> HCBM030313002009	BOMBAY HIGH COURT	2010	Empowers Co-operative Court to resolve member grievances concerning property, encroachment, and nuisance.
18	<i>V. Sumathi v. Additional Registrar, Tamil Nadu Cooperative Housing Federation</i> HCMA010994392018	MADRAS HIGH COURT	2019	Denies writ jurisdiction for terminal benefits, requiring exhaustion of statutory cooperative remedies.
19	<i>Mohini Bhuyan v. State of Assam</i> GAHC010157752018	GAUHATI HIGH COURT	2018	Directs candidate in co-operative election dispute to seek redress before Assistant Registrar.
20	<i>R. Bakthavatchalu v. The Registrar of Cooperative Societies (Housing)</i> HCMA011266392009	MADRAS HIGH COURT	2011	Directs housing plot disputes to be settled under Section 90 of TN Act.
21	<i>G. Arumugam v. The Salem Junction Co-operative Building Society</i> HCMA010976982011	MADRAS HIGH COURT	2011	Rejects writ petition against co-operative society's loan dues notice due to statutory remedies.
22	<i>Kallu Singh v. State of U.P.</i> UPHC010839932019	ALLAHABAD HIGH COURT	2019	Rejects writ against co-operative society lacking deep and pervasive government control.
23	<i>R. Dasarathan v. The Joint Registrar of Cooperative Societies</i> HCMA011432412004	MADRAS HIGH COURT	2017	Dismisses clerk's salary recovery writ petition, mandating use of alternative statutory remedies.

#	CASE TITLE	COURT	YEAR	KEY HOLDING
24	<i>A. Ramesh Himmatlal Shah v. Harsukh Jadhavji Joshi</i> ESCR010002841975	SUPREME COURT OF INDIA	1975	Rules that right to occupy a housing society flat is attachable/saleable property interest.
25	<i>S. Alim Basha v. Deputy Registrar/Managing Director, Tiruchirappalli District Amaravathi Consumers Co-operative Wholesale Stores Ltd.</i> HCMD010391652015	MADRAS HIGH COURT	2019	Mandates exhausting alternative statutory appeals and revisions before invoking writ jurisdiction under Article 226.

IV. Case Details 25 CASE FILES

01 Sanwarmal Kejriwal v. Vishwa Cooperative Housing Society Ltd.

SUPREME COURT OF INDIA • 1990-03-08 • 1990 INSC 81

The dispute concerned whether a licensee in possession of a flat within a cooperative housing society could be evicted through proceedings under the Maharashtra Cooperative Societies Act, or if they were entitled to the protections afforded to tenants under the Bombay Rent Act. The occupant, having been in possession since 1957, qualified as a protected tenant under Section 15A of the Rent Act. The Supreme Court held that since the occupant was a protected tenant by operation of law, the society could not circumvent these protections by initiating summary eviction proceedings under the Cooperative Societies Act. Consequently, the Court dismissed the eviction application, ruling that the society failed to establish the foundational claim that the occupant was merely a trespasser.

HELD The Supreme Court held that when an occupier of a flat in a housing cooperative qualifies as a protected tenant under Rent Control legislation, the housing society cannot circumvent those statutory protections by initiating summary eviction under Section 91(1) of the Maharashtra Co-operative Societies Act, 1960. While Section 91(1) covers disputes touching the business or management of a society, it does not oust the jurisdictional protections of rent laws where a valid tenancy or licensee status is established by operation of law.

“The appellate court also took the view that regardless of the relations between the occupant of the flat and the member-allottee, the society was entitled to maintain an action under Section 91(1) of the Societies Act since there was not and there could not be any relationship of landlord and tenant between the society and the occupant. It accordingly confirmed the order passed by the Cooperative Court. Feeling aggrieved by the concurrent findings recorded by the said two courts, the appellant preferred writ petition No. 2513 of 1989 in the High Court of Judicature at Bombay.”

SUPREME COURT OF INDIA • 1990

SOURCE ESCR01000811990

02 Baswaraj v. Madevi

BOMBAY HIGH COURT • 2020-03-04 • SA/877/2016

The appellant filed a suit for partition and separate possession of a residential property, claiming it was a joint Hindu family property purchased from joint family funds by his late brother, who was the Karta of the family. The defendants, the legal heirs of the deceased brother, contended that the property belonged exclusively to the deceased and that the suit was barred under Section 91 of the Maharashtra Co-operative Societies Act, as the dispute concerned the internal management of a registered co-operative housing society. Both the trial court and the district court upheld the defendants' objection, concluding that the Civil Court lacked jurisdiction to entertain the suit and dismissed the matter.

HELD The Bombay High Court affirmed the concurrent findings of the lower courts that if a dispute is essentially one "touching the business of a housing society," the Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act, 1960, holds exclusive jurisdiction. Consequently, civil courts are barred from entertaining such suits as per the clear statutory mandate.

"To support his submission that the dispute in the present case is touching the business of housing society and therefore the Co-operative Court has jurisdiction to entertain the dispute as per section 91 of the MCS Act, the learned Advocate for the defendants has relied upon following decisions... the Trial Court rightly disposed of the suit by dismissing the same in view of the negative finding on preliminary issue and the Appellate Court rightly upheld the finding recorded by the Trial Court and dismissed the appeal."

BOMBAY HIGH COURT • 2020

SOURCE HCBM030444712016

03 Church of South India Trust Association v. Registrar (Housing)

MADRAS HIGH COURT • 2010-06-08 • WP/9848/2008

This case concerns the unauthorized transfer of land owned by a cooperative housing society to the Church of South India Trust Association. The property was transferred via a deed of settlement without the required approval from the society's general body or the Registrar of Cooperative Societies, and was signed by individuals who lacked the authority to do so under the Tamil Nadu Cooperative Societies Act. Following a revision petition, the Registrar declared the transfer illegal and directed the recovery of the property.

HELD The Madras High Court held that the Registrar has ample revisionary and review powers under Section 153 of the Tamil Nadu Co-operative Societies Act to declare unauthorized transfers of cooperative society properties void *ab initio*. It affirmed that societies must manage their properties strictly in accordance with Section 71 and Rule 87, and any attempt to transfer property de hors these provisions is non-binding on the society.

"For entertaining the application, the first respondent has ample power under Section 153 and any action by the third respondent cooperative society, he can review and can issue an appropriate order since the transaction made by certain members of the third respondent society was totally illegal and repugnant to the provisions of the Cooperative Societies Act. It is well open to the Registrar to issue an appropriate direction to recover the property belonging to the society. Any attempt to transfer the property de hors the provisions of the act is void ab initio and not binding on the society."

MADRAS HIGH COURT • 2010

SOURCE HCMA010818812008

04 Sardar Mohan Singh Ahluwalia v. Maitrai Park Co-operative Housing Society Ltd.

SUPREME COURT OF INDIA • 1988-09-19 • 1988 INSC 285

This case concerned a dispute over the unauthorized occupation of a flat by a licensee after the expiry of a leave and licence agreement. The respondent society sought eviction before the Co-operative Court, arguing that the occupant was in violation of society bye-laws. The occupant challenged the court's jurisdiction and claimed tenancy rights under the Bombay Rent Act. The Supreme Court of India upheld the lower court's decision, ruling that the dispute fell within the purview of the Maharashtra Co-operative Societies Act, 1960. The Court further held that the occupant did not qualify as a deemed tenant under the Bombay Rent Act as there was no subsisting licence agreement on the relevant date.

HELD The Supreme Court held that a dispute regarding the eviction of an occupant inducted without the society's written consent, whose license had expired, falls directly under Section 91 of the Maharashtra Co-operative Societies Act, 1960. The Co-operative Court has full jurisdiction to adjudicate such eviction disputes, especially where the occupant does not qualify for Rent Act protections.

"The Court, HELD: That the dispute in question comes within the purview of S. 91 of the Maharashtra Co-operative Societies Act, 1960 as the appellant claims to be in possession of the flat through a member of the Society which is a Co-partnership Housing Society and Sec. 12A of the Bombay Rent Act does not apply as there was no subsisting agreement of licence on 1.2.1973."

SUPREME COURT OF INDIA • 1988

SOURCE ESCR010004571988

05 A. Satyanarayana Murthy v. The Commissioner for Co-operation & Registrar of Co-operative Societies

HIGH COURT FOR STATE OF TELANGANA • 2006-02-17 • WP/7159/1996

The petitioner challenged the termination of his services as an Attender-cum-Salesman by a primary agricultural co-operative society. The respondent society argued that the petitioner was never regularly appointed, that his selection involved irregularities, and that the society did not perform public functions that would make it subject to a writ petition. The court analyzed whether a co-operative society constitutes the 'State' under Article 12 or an 'authority' under Article 226 of the Constitution of India. It concluded that the society was not an instrumentality of the State because it lacked pervasive government control and did not perform public duties. Consequently, the court held the writ petition was not maintainable against the private management of the society.

HELD The High Court held that while cooperative societies are regulated by the provisions of State Cooperative Acts, such regulatory control does not make them "State" under Article 12 of the Constitution. Therefore, a writ under Article 226 cannot be maintained against the private management of a cooperative society to enforce non-public statutory duties or private employment disputes.

"While it is no doubt true that the Co-operative Societies in the State of Andhra Pradesh are regulated by the provisions of the Andhra Pradesh Co-operative Societies Act, the regulatory provisions of the Act would not make the fourth respondent-society a 'State' within the meaning of Article 12 of the Constitution of India."

HIGH COURT FOR STATE OF TELANGANA • 2006

SOURCE HBHC010198701996

06 Hindustan Co-operative Housing Society Ltd. v. Registrar, Co-operative Societies and Anr.

SUPREME COURT OF INDIA • 2009-02-12 • 2009 INSC 169

This case concerns the eligibility of a member's daughter to claim a plot of land from a co-operative housing society after the original member had requested a refund of his deposits and resigned. The daughter filed a writ petition in the High Court, which ruled in her favor, directing the allotment of a plot. The Supreme Court set aside the High Court's order, noting that the High Court failed to consider Rule 25(2) of the Delhi Co-operative Societies Rules, 1973, which stipulates a 'deemed disqualification' for members under certain conditions. Furthermore, the Court emphasized that writ petitions should generally not be entertained when statutory remedies are available. The matter was remitted to the High Court for a fresh decision.

HELD The Supreme Court reiterated that normally when a statutory remedy is available under the Co-operative Societies Act and Rules, an aggrieved party must exhaust that alternative statutory remedy before attempting to invoke the writ jurisdiction of the High Court under Article 226.

"The appeal filed by the Co-operative Housing Society, it was contended for the appellant that the High Court lost sight of r.25 of the Delhi Co-operative Societies Rules, 1973, and respondent No.2, without availing the statutory remedies available under the Delhi Co-operative Societies Act, 1972 and the Rules, could not file the writ... HELD: 1. For the purpose of the instant case Sub- rule (2) of Rule 25 of the Delhi Co-operative Societies Rules, 1973 is of paramount importance... 2. Normally when a statutory remedy is available, the same should be availed."

SUPREME COURT OF INDIA • 2009

SOURCE ESCR010006232009

07 P. Lalitha v. Deputy Registrar/Managing Director, Tiruchirappalli District Amaravathi Consumers Co-operative Wholesale Stores Ltd.

MADRAS HIGH COURT • 2019-06-27 • WP(MD)/18646/2015

The petitioner challenged a charge memo issued against her by the respondent co-operative society. The court ruled that the writ petition was not maintainable, emphasizing that a co-operative society registered under the Tamil Nadu Co-operative Societies Act is not a 'State' under Article 12 of the Constitution. Consequently, service disputes between such societies and their employees should be resolved through the statutory remedies provided by the Act, specifically under Section 153, rather than by invoking the writ jurisdiction of the High Court. The court further noted that a mere charge memo does not provide sufficient grounds for judicial intervention under Article 226, as the petitioner must first exhaust all available administrative avenues.

HELD The Madras High Court held that a cooperative society is not a "State" within the meaning of Article 12. Consequently, internal administrative actions (such as charge memos) cannot be directly challenged via Article 226, and the aggrieved party is bound to exhaust the efficacious alternative remedies provided under the Act.

“The Larger Bench ruled that, no writ petition can be dismissed on the ground of maintainability, if the person approaching the Court is able to establish that the Cooperative Society is a \"State\" within the meaning of Article 12 of the Constitution of India... In respect of the Cooperative Societies where no Writ can be entertained, then also, the Larger Bench made an observation that, those employees who all are not working under the State is bound to exhaust the remedies provided under the provisions of the Tamil Nadu Cooperative Societies Act.”

MADRAS HIGH COURT • 2019

SOURCE HCMD010391642015

08 Pawan Kumar & Ors. v. Union of India & Ors.

HIGH COURT OF DELHI • 2022-07-19 • W.P.(C)/2059/2021

This case concerns a challenge to the election process of the Northern Zone Railway Employees Thrift and Credit Society Limited, a multi-state cooperative society. The petitioners sought to challenge the election calendar and delegate distribution. The court examined preliminary objections regarding the maintainability of writ petitions against such a society. Citing established precedents, the court noted that the society does not constitute 'State' under Article 12 of the Constitution and that disputes relating to the society's election processes are referable to arbitration under the Multi-State Cooperative Societies Act, 2002. Consequently, the court held that the writ petitions were not maintainable, emphasizing that disputes touching upon the management or constitution of the society must be resolved through the statutory arbitration mechanism.

HELD The Delhi High Court confirmed that writ petitions under Article 226 are not maintainable against cooperative societies for internal disputes such as election processes. Aggrieved parties must resolve these disputes through the statutory arbitration mechanisms provided under the relevant Cooperative Societies Act.

“The Full Bench held that the Cooperative Society was not a statutory body. But, the Full Bench, relying on the judgment of the Supreme Court in *Praga, Tools*, held... command compliance of the statutory requirements... Accordingly, we hold that the question whether the purported forfeiture and cancellation of the lease were valid or not should not have been allowed to be agitated in proceedings under Article 226.”

HIGH COURT OF DELHI • 2022

SOURCE DLHC010095902021

09 A. Satish Chandra v. Registrar of Cooperative Societies, Delhi

SUPREME COURT OF INDIA • 1994-04-21 • 1994 INSC 166

The petitioners were expelled from their housing society and sought to challenge the expulsion and other administrative actions via a writ petition under Article 32 of the Constitution. The Supreme Court dismissed the petition, ruling that membership in a cooperative society is a statutory right rather than a fundamental right, and that aggrieved parties must exhaust statutory remedies or Article 226 petitions before approaching the Supreme Court. Furthermore, the court held that the petitioners' failure to challenge the expulsion in their earlier High Court writ petition rendered the current petition barred by the principle of constructive res judicata.

HELD The Supreme Court held that membership in a cooperative housing society is a statutory right, not a fundamental right. Any disputes regarding removal or expulsion from membership must be pursued through the statutory remedies provided in the Cooperative Societies Act, rather than by directly invoking the writ jurisdiction of the Supreme Court under Article 32.

"The right to membership of a cooperative society is a right under a statute and not a fundamental right. If the petitioners have been removed otherwise than in accordance with law, they have to pursue the remedy as provided under the Act. This court does not encourage the filing of the writ petition under Article 32, bypassing the statutory remedy and the remedy of Article 226."

SUPREME COURT OF INDIA • 1994

SOURCE ESCR010001701994

10 Banaskantha Jilla Sahakari Dudh Utpadak Sangh Ltd. v. Meghrajbhai Galbabhai Patel

HIGH COURT OF GUJARAT • 2013-10-10 • X-0BJ/302/1999

The dispute involved the termination of a Veterinary Officer by a cooperative society without prior notice or an opportunity to be heard. The plaintiff challenged his dismissal, seeking reinstatement and monetary compensation. The trial court declared the termination illegal, finding that the employee was confirmed in his role and entitled to service until the age of 58. It awarded damages instead of reinstating the employee. On appeal, the Gujarat High Court upheld the trial court's decision, noting that the society failed to follow principles of natural justice and that the termination was not supported by the contract of employment.

HELD The Gujarat High Court observed that while a cooperative society may not be "State" under Article 12, its failure to perform statutory duties or public law obligations can be corrected under Article 226. Under Section 160 of the Gujarat Cooperative Societies Act, the Registrar has specific powers to issue directions to ensure compliance with the law.

"Under the provisions of section 160 of the said Act, the Registrar enjoys certain powers to give directions to the co-operative societies... the writ jurisdiction can be invoked as a public law remedy for fulfillment of the public duty and obligation... when the Court has found that such body has failed to discharge the duty cast upon it under any statute"

HIGH COURT OF GUJARAT • 2013

SOURCE GJHC240236921999

11 M/s. Anita Enterprises and Anr. v. Belfer Coop. Housing Society Ltd. & Ors.

SUPREME COURT OF INDIA • 2007-11-14 • 2007 INSC 1150

This case concerns whether a member of a tenant co-partnership housing society can lawfully create a sub-tenancy in favor of third parties without adhering to the society's bye-laws and the Maharashtra Co-operative Societies Act. The court held that while a member of such a society is not the de jure owner, their status is superior to that of a tenant under the Rent Act. Because the induction of the appellants as tenants violated

statutory requirements regarding membership and transfer of interest under the Societies Act, the transaction was voidable. Consequently, the appellants could not claim protection under the Rent Act, and the society was entitled to pursue eviction proceedings before the Co-operative Court.

HELD The Supreme Court ruled that while an allottee of a housing society flat is not the de jure owner, they enjoy possessory rights. However, if they induct tenants/sub-tenants in violation of the society's bye-laws or without statutory consent as required under Section 29(2) of the Maharashtra Co-operative Societies Act, the transaction is voidable. The society can validly refer such a tenancy dispute to the Co-operative Court under Section 91 for eviction.

"Since creation of tenancy is infraction of mandatory provisions u/s. 29(2) of the Societies Act, transaction between allottee and tenant in question voidable-Thus, relationship of landlord and tenant not duly created-Hence, appellants cannot claim protection under the Rent Act and petition u/s.91 of the Societies Act maintainable"

SUPREME COURT OF INDIA • 2007

SOURCE ESCR010002332007

12 M/s. Sumer Associates v. Margaret Almeida & Ors.

BOMBAY HIGH COURT • 2011-08-29 • APP/687/2011

This group of appeals arises from a dispute regarding the bifurcation of the Bombay Catholic Co-operative Housing Society Limited. The litigation involves multiple writ petitions and civil suits challenging both the administrative process of dividing the society and the validity of resolutions and property conveyances. A Single Judge had set aside a state government order and maintained a remand order for fresh proceedings by the Deputy Registrar. Furthermore, the Single Judge upheld the maintainability of the underlying civil suits and ordered the parties to maintain the status quo. The High Court, hearing these matters collectively, maintained the Single Judge's orders and disposed of the appeals accordingly.

HELD The Bombay High Court detailed the wide scope of Section 91 of the Maharashtra Co-operative Societies Act, 1960, which mandates that any dispute touching the constitution, management, or business of a society must be referred to the Co-operative Court, thereby ousting civil court jurisdiction under Section 91(3).

"Section 91 of the Maharashtra Co-operative Societies Act reads as under:- "91. (1) Notwithstanding (anything contained) in any other law for the time being in force, any dispute touching the constitution, election of the committee... management or business of a society shall be referred... to a co-operative Court... (3) Save as otherwise provided under [sub-section (2) of section 93], no Court shall have jurisdiction to entertain any suit or other proceeding in respect of any dispute referred to in sub-section (1)."

BOMBAY HIGH COURT • 2011

SOURCE HCBM020168582011

13 Narendra K. Kochar v. Sind Maharashtra Coop. Housing Society Ltd.

SUPREME COURT OF INDIA • 2002-07-09 • 2002 INSC 296

The dispute involved a housing society seeking to evict a licensee occupying a member's flat. The appellant, who was a licensee residing in the flat before February 1, 1973, argued that under the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, he became a deemed tenant and could not be evicted through proceedings initiated under the Maharashtra Co-operative Societies Act, 1960. The Supreme Court ruled in favor of the appellant, holding that the protection granted to licensees under the Rent Control Act cannot be bypassed by society bye-laws. Therefore, the society could not initiate eviction proceedings under the Societies Act and was required to follow the provisions of the Rent Control Act.

HELD The Supreme Court held that the protection granted to occupants as deemed tenants under the Rent Control Act cannot be bypassed by a cooperative society seeking eviction through summary proceedings under Section 91 of the Maharashtra Co-operative Societies Act, 1960. In such cases, the society must proceed under the Rent Control Act.

"The Co-operative Court by its judgment... found that respondent no. 2 was not a defaulter, but as the appellant was put in occupation of the premises... as a licensee without previous consent of the Society, both of them were liable to be evicted... The Supreme Court ruled in favor of the appellant, holding that the protection granted to licensees under the Rent Control Act cannot be bypassed by society bye-laws."

SUPREME COURT OF INDIA • 2002

SOURCE ESCR010003462002

14 Margret Almeida & Ors. v. The Bombay Catholic Co-operative Housing Society Ltd. & Ors.

SUPREME COURT OF INDIA • 2012-01-30 • 2012 INSC 55

This case concerns whether civil courts have jurisdiction to hear disputes involving the sale of property by a co-operative housing society to third parties. The appellants, who are members of the society, challenged a resolution and subsequent conveyance deed executed by the society in favor of third-party respondents, arguing the transactions were illegal. The High Court had dismissed the suits, ruling that the dispute fell under the exclusive jurisdiction of the Co-operative Court under the Maharashtra Co-operative Societies Act, 1960.

HELD The Supreme Court held that the exclusive jurisdiction of the Co-operative Court under Section 91 of the MCS Act, 1960, does not apply to disputes involving non-member third parties who have acquired property interests. Thus, a civil suit under Section 9 of the CPC is maintainable to challenge the validity of property transfers to third parties.

"From the language of the sub section (3)(a) to Section 94 it is clear that the legislature intended the Co-operative Court to deal with only the cases of acquisition of interest in the property during the pendency of the litigation before it... necessarily such a dispute would have to be adjudicated by a competent court u/s. 9 CPC wherein, necessarily, the question whether a valid title was conveyed in favour of 3rd party by the society would arise for determination"

SUPREME COURT OF INDIA • 2012

SOURCE ESCR010002422012

15 A. Sundaram v. The Joint Registrar of Co-operative Societies

MADRAS HIGH COURT • 2018-01-18 • WP/14402/2014

The petitioner, a former Secretary of a Primary Agricultural Co-operative Bank, sought a writ to compel the payment of his gratuity, provident fund, and earned leave salary following his termination due to a criminal conviction. He argued that the non-payment violated statutory provisions under the Tamil Nadu Co-operative Societies Act.

HELD The Madras High Court ruled that cooperative society employees cannot maintain a writ petition directly under Article 226 without exhausting the statutory remedies, specifically the revision mechanism under Section 153 of the Tamil Nadu Co-operative Societies Act.

“Thus intermittent intervention is not preferable, and the competent authorities shall be allowed to exercise their Quasi Judicial powers in accord with the provisions of the Act... this Court is of the opinion that the remedy available under Section 153 of the Act is to be exhausted before approaching this Court under Article 226 of the Constitution of India.”

MADRAS HIGH COURT • 2018

SOURCE HCMA010644742014

16 Shobha Asaram Chitalar v. Aruna Vishwanath Kanade

BOMBAY HIGH COURT • 2015-04-20 • WP/4094/2014

The dispute involved the jurisdiction of the Cooperative Court versus the Civil Court regarding claims filed by members of a housing society. The petitioners argued that since their financial contributions and allotment letters predated the society's formal registration in 2007, the dispute fell outside the ambit of section 91 of the Maharashtra Cooperative Societies Act. The Cooperative Court initially dismissed the case for lack of jurisdiction, but the Appellate Court overturned this, finding the dispute maintainable. The High Court upheld the appellate decision, noting that the status of the complainants as members remained valid and the society had never sought to refund their contributions, thereby affirming the Cooperative Court's jurisdiction over the matter.

HELD The Bombay High Court held that the Co-operative Court retains jurisdiction under Section 91 of the Maharashtra Co-operative Societies Act, 1960, to adjudicate disputes regarding allotments and contributions, even if some transactions predated the formal registration of the society, so long as the relationship of member and society is active.

“The Appellate Court... set aside the same and gave finding as regards the tenability of the dispute as according to the Cooperative Appellate Court the cause cited to be canvassed is covered within the scope of section 91 of the Act... The High Court upheld the appellate decision, noting that the status of the complainants as members remained valid and the society had never sought to refund their contributions, thereby affirming the Cooperative Court's jurisdiction over the matter.”

BOMBAY HIGH COURT • 2015

SOURCE HCBM030138912014

17 Raghunath S/o Bansi Dalvi v. Ideal Cooperative Housing Society Limited

BOMBAY HIGH COURT • 2010-02-02 • WP/7840/2009

The dispute involved a disagreement between two members of a Cooperative Housing Society regarding alleged encroachment and nuisance caused by structural alterations to a property. The petitioners filed a complaint before the Cooperative Court, but the respondents challenged its jurisdiction, arguing that the dispute was between individual members and did not concern the business of the Society. The Appellate Cooperative Court initially held that the Cooperative Court lacked jurisdiction.

HELD The Bombay High Court ruled that it is within the inherent domain and "business" of a cooperative housing society to ensure that its members enjoy their properties in accordance with the bye-laws. Therefore, any disputes between members inter se or against the society concerning property alterations, encroachment, or nuisance are within the Co-operative Court's jurisdiction.

"On perusal of the bye-laws of the Respondent No.1 Cooperative Society, it is amply clear that the main business of the Cooperative Housing Society is to construct buildings, sale or lease out the plots or to do all the activities necessary for the development of the Housing activities... if the dispute arises between the two members, then any member may approach the Committee of the Respondent No.1 Housing Society as a first step... Obviously, it is within the domain of the business of the Respondent No.1 society to deal with the dispute between the two members in respect of their properties/houses."

BOMBAY HIGH COURT • 2010

SOURCE HCBM030313002009

18 V. Sumathi v. Additional Registrar, Tamil Nadu Cooperative Housing Federation

MADRAS HIGH COURT • 2019-02-26 • WP/16330/2018

The petitioner filed a writ petition seeking a direction to the respondent Cooperative Society to disburse the terminal benefits, including salary arrears, gratuity, and provident fund, due to her deceased husband. The court examined the maintainability of the petition against a cooperative society, noting that cooperative societies are not considered 'State' under Article 12 of the Constitution. Following established precedents, the court held that the petitioner must first exhaust alternative remedies available under the relevant statutes, such as the Payment of Gratuity Act or the Tamil Nadu Co-operative Societies Act, 1983. Consequently, the court found the writ petition not maintainable and dismissed it, granting the petitioner liberty to approach the appropriate statutory authorities.

HELD The Madras High Court dismissed a writ petition for terminal benefits on the grounds that cooperative societies are not "State" under Article 12, and held that quasi-judicial powers of statutory authorities under the Co-operative Societies Act must not be bypassed via Article 226.

“This Court is of the firm opinion that every institution created through and under the Statute is to be respected and the jurisdiction and powers provided under the statute shall be allowed to be exercised by the competent authorities... remedy available under Section 153 of the Act is to be exhausted before approaching this Court under Article 226 of the Constitution of India.”

MADRAS HIGH COURT • 2019

SOURCE HCMA010994392018

19 Mohini Bhuyan v. State of Assam

GAUHATI HIGH COURT • 2018-07-23 • WP(C)/4832/2018

The petitioner challenged the validity of a candidate list for the Board of Directors election of the Borgaon Gaon Panchayat Samabai Samiti Ltd., alleging that his nomination had been falsely withdrawn without his consent. He sought a writ of mandamus to quash the list and mandate the preparation of a new one. The High Court dismissed the petition, ruling that the cooperative society was not an 'authority' or 'State' under Article 12 of the Constitution, and therefore, the matter fell outside the scope of its writ jurisdiction. The Court advised the petitioner to seek redress through the appropriate statutory authorities, specifically the Assistant Registrar of Cooperative Societies.

HELD The Gauhati High Court held that a cooperative society does not discharge public functions that would justify invoking writ jurisdiction under Article 226. Grievances must be addressed before the statutory authorities, such as the Assistant Registrar of Cooperative Societies.

“There is nothing on record to show that the cooperative society is a State within the meaning of Article 12 of the Constitution of India or any other authority discharging public functions under Article 226 of the Constitution of India. In such circumstances, invoking the writ jurisdiction may not be justified. If the petitioner has any grievance, he can seek redressal of his grievance before the statutory authorities, including the jurisdictional Assistant Registrar of Cooperative Societies.”

GAUHATI HIGH COURT • 2018

SOURCE GAHC010157752018

20 R. Bakthavatchalu v. The Registrar of Cooperative Societies (Housing)

MADRAS HIGH COURT • 2011-04-26 • WP/26400/2009

The petitioners, employees or former employees of the State Express Transport Corporation, sought the allotment of housing plots from their Cooperative Housing Society. The society had previously collected funds from the members but purchased scattered agricultural land without obtaining necessary layout approvals or access roads, which were later embroiled in criminal proceedings against the society's former directors. The Court found that the lands were unsuitable for housing development and that the prior order directing registration was erroneous and legally flawed. Consequently, the Court upheld the cancellation of the allotment orders, noting that the society could not be compelled to register plots that were legally and physically unviable, while acknowledging the petitioners' right to seek refunds of their investments.

HELD The Madras High Court held that disputes between members and the officers of a cooperative housing society regarding allotment of plots cannot be settled under Article 226, as they must be resolved under Section 90 of the Tamil Nadu Co-operative Societies Act, with an appeal to the Cooperative Tribunal under Section 152.

“Since it is essentially a dispute between the members and the Special Officer who represents the society, such dispute can only be settled in terms of Section 90 of the Tamil Nadu Cooperative Societies Act, failing which a further appeal lies to a Cooperative Tribunal constituted under Section 152 of the Act.”

MADRAS HIGH COURT • 2011

SOURCE HCMA011266392009

21 G. Arumugam v. The Salem Junction Co-operative Building Society

MADRAS HIGH COURT • 2011-04-08 • WP/8919/2011

The petitioner challenged a notice from a co-operative society regarding loan dues, seeking to quash the notice and settle the account for a specific sum. The Madras High Court dismissed the writ petition as not maintainable, citing established legal precedent that a co-operative society is generally not an instrumentality of the State under Article 12 of the Constitution, and that the petitioner had access to effective alternative remedies under the Co-operative Societies Act. The Court granted the petitioner liberty to pursue these statutory remedies, noting that it would not exercise its writ jurisdiction where alternative legal channels exist.

HELD The Madras High Court dismissed a writ petition challenging a loan recovery notice, affirming that in the absence of special circumstances, writ courts will not exercise power under Article 226 when the Co-operative Societies Act provides an effective statutory alternative remedy.

“This Court, in the absence of special circumstances, is not inclined to exercise power under Article 226 of the Constitution of India as admittedly, the petitioner has a remedy under the Co-operative Societies Act... wherein effective alternative remedy is provided to the petitioner.”

MADRAS HIGH COURT • 2011

SOURCE HCMA010976982011

22 Kallu Singh v. State of U.P.

ALLAHABAD HIGH COURT • 2019-04-30 • WRIA/6737/2019

The petitioner, an employee of a cooperative society, sought a writ of mandamus for the regularization of his services. The respondents challenged the maintainability of the petition, arguing that the cooperative society is an autonomous body, is not the 'State' under Article 12 of the Constitution, and does not perform public functions under the control of the government.

HELD The Allahabad High Court held that a writ petition is not maintainable against a cooperative society unless it can be demonstrated that the society is financially, functionally, or administratively dominated by the government to answer the description of "State" under Article 12.

"The writ petition is essentially against a cooperative society, which is neither 'State' within the meaning of Article-12 nor "other authority" under Article 226 of the Constitution of India and as such is not maintainable... Learned counsel for the petitioner has not been able to demonstrate or bring on record any material, which may show that society answers the description of State, as per the parameters laid down by Full Bench of this Court."

ALLAHABAD HIGH COURT • 2019

SOURCE UPHC010839932019

23 R. Dasarathan v. The Joint Registrar of Cooperative Societies

MADRAS HIGH COURT • 2017-08-30 • WP/22147/2004

The petitioner, a junior clerk at a co-operative bank, challenged an order issued by a Special Officer that directed the recovery of alleged excess salary payments. The petitioner sought a writ to quash the order and ensure continued salary disbursements based on previous pay fixation.

HELD The Madras High Court held that the internal service conditions of employees or members of a cooperative society governed by its bye-laws are not enforceable via writ because the bye-laws do not have the force of law. Aggrieved parties must pursue their statutory remedies under the Act.

"The bye-laws made by a co-operative society registered under the Tamil Nadu Co- operative Societies Act, 1983 do not have the force of law. Hence, where a society cannot be characterised as a 'State', the service conditions of its employees governed by its bye-laws cannot be enforced through a writ petition. (vii) In the absence of special circumstances, the Court will not ordinarily exercise power under Article 226 of the Constitution of India when the Act provides for an alternative remedy."

MADRAS HIGH COURT • 2017

SOURCE HCMA011432412004

24 A. Ramesh Himmatlal Shah v. Harsukh Jadhavji Joshi

SUPREME COURT OF INDIA • 1975-04-25 • 1975 INSC 106

This case addressed whether a judgment-debtor's right to occupy a flat in a cooperative housing society is liable to attachment and sale in execution of a money decree. The judgment-debtor argued that such property was exempt under the Maharashtra Co-operative Societies Act, 1960. The Supreme Court of India held that the right to occupy a flat is a species of property that is both attachable and saleable under the Civil Procedure Code. The Court clarified that the Act does not prohibit the transfer or attachment of such rights, provided the purchaser complies with membership requirements. Consequently, the Court set aside the High Court's order that had prohibited the execution sale.

HELD The Supreme Court held that the right to occupy a flat in a cooperative housing society is a species of property that is both attachable and saleable under Section 60 of the CPC. The Co-operative Societies Act does not prohibit the attachment or transfer of such rights, provided that any prospective purchaser complies with the membership criteria of the society.

“The point that arises for consideration in this appeal... is whether the right of the judgment-debtor, who claims the right to occupation of flat No. 9, is liable to attachment and sale in execution of a decree... although, therefore, the respondent is not a registered holder of the flat, it is clear that the flat is held by his brother and his wife on behalf of the respondent. This is to be noted as section 60, Civil Procedure Code, reaches a benami holding... the right to occupy the flat is his property”

SUPREME COURT OF INDIA • 1975

SOURCE ESCR010002841975

25 S. Alim Basha v. Deputy Registrar/Managing Director, Tiruchirappalli District Amaravathi Consumers Co-operative Wholesale Stores Ltd.

MADRAS HIGH COURT • 2019-06-27 • WP(MD)/18647/2015

The petitioner challenged a charge memo issued by a co-operative society regarding alleged financial misconduct during their employment. The petitioner argued that the charges were framed with mala fide intent on the eve of their retirement. The court, however, determined that the respondent co-operative society does not constitute 'State' under Article 12 of the Constitution and is not subject to writ jurisdiction for such service disputes. Furthermore, the court held that the petitioner failed to exhaust the efficacious alternative statutory remedies available under the Tamil Nadu Co-operative Societies Act. Consequently, the court dismissed the petition, noting that disputed factual allegations regarding disciplinary proceedings should be adjudicated by the appropriate statutory authorities.

HELD The Madras High Court confirmed that writ petitions under Article 226 are not maintainable to resolve disciplinary actions or internal disputes of cooperative societies, as cooperative societies are not instrumentalities of the State. Aggrieved persons must resolve such complex factual and administrative issues through statutory appeals or revisionary mechanisms before the Registrar.

“The Registrar, while performing quasi-judicial functions are empowered to adjudicate the Appeals, Revision or Reviews in the manner prescribed under the Act and Rules and by providing opportunity to all the parties concerned. Thus, such a statutory remedy is to be construed as an effective alternative remedy which all are to be exhausted by the aggrieved persons. Even in normal parlance, the High Court would not entertain the writ petition, if an effective alternative remedy is provided under any statute.”

MADRAS HIGH COURT • 2019

SOURCE HCMD010391652015

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