



Shabnoor

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

WRIT PETITION NO.3541 OF 2015

Sarita Cooperative Housing Society Ltd. ... Petitioner
V/s.
The Minister for Cooperation & Textile
Department & Ors. ... Respondents

**WITH
WRIT PETITION NO.1640 OF 2015**

Sheetal F Building
Cooperative Housing Society Ltd. ... Petitioner
V/s.
The Minister for Cooperation & Textile
Department & Ors. ... Respondents

**WITH
WRIT PETITION NO.11252 OF 2014**

Sarita Cooperative Housing Society Ltd. ... Petitioner
V/s.
The Minister for Cooperation & Textile
Department & Ors. ... Respondents

Mr. Kishor Tembe with Madhavi Nalawade, for the Petitioner
in WP Nos./3541/2015 & 11252/2014.

Ms. S. D. Chipade, AGP, for the State – Respondent Nos.1 to 3
in WP/3541/2015.

Ms. Mamta Shrivastava, AGP, for the State – Respondent
Nos.1 to 3 in WP/1640/2015.

Ms. V. R. Raje, AGP, for the State – Respondent Nos.1 to 3 in
WP/11252/2014.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 12, 2026

P.C.:

1. **Rule.** Rule made returnable forthwith.
2. The present writ petitions call in question the legality and validity of the order passed by the Registrar in exercise of powers under Section 9 of the Maharashtra Cooperative Societies Act, 1960, whereby a separate cooperative society has been registered consisting of certain persons who were formerly members of the petitioner society.
3. According to the petitioner, the building known as “G–Sarita” comprises a ground floor and six upper floors. The ground floor consists of 10 commercial shops and 8 residential flats, all forming part of a common structural framework and sharing a common wall. In aggregate, the building consists of 56 residential flats and 10 shops. The entire construction is structurally interlinked and constitutes one composite and integrated building.
4. The petitioner society came to be registered under the provisions of the MCS Act on 30 January 1986. Subsequently, the shop owners tendered their resignations from the membership of the petitioner society and submitted a proposal seeking registration of a separate cooperative society in respect of the 10 shops. These shops admittedly form part of the same building for which the petitioner society stands registered.
5. By a show cause notice dated 4 February 2010, the Deputy

Registrar called upon the petitioner to explain why a separate society should not be registered in respect of the said shops. The petitioner submitted its reply on 10 February 2010 opposing the proposal. It was contended that the shop premises form an inseparable part of a single integrated structure and that mere fulfilment of the minimum numerical requirement prescribed for registration cannot justify registration of a new cooperative society when the premises are already included within an existing registered society. The Deputy Registrar rejected these objections and proceeded to grant registration to respondent No.4 society.

6. While granting registration to respondent No.4, the authorities under the Act recorded a finding that the portion of the building for which registration was sought constituted an independent structure. The petitioner thereafter preferred an appeal under Section 152 of the MCS Act and also filed an application under Section 21A seeking de-registration of respondent No.4 society. The appeal, revision and the application under Section 21A were all dismissed. Being aggrieved by these concurrent orders, the petitioner has invoked the writ jurisdiction of this Court.

7. Respondent No.4 was duly served with notice of the present petition. An Advocate entered appearance on its behalf and filed a reply opposing the petition. On 10 February 2026, when the matter was called out, none appeared on behalf of respondent No.4. The matter was adjourned and placed for final hearing with a clear indication that the adjournment was being granted as a last opportunity. Even on the adjourned date, there is no appearance

on behalf of respondent No.4, though the name of its Advocate continues to be shown on the board. In these circumstances, the Court proceeds to decide the petition on merits in the absence of respondent No.4.

8. Having heard the learned Advocate appearing for the petitioner and having examined the material placed on record, this Court is of the considered view that the impugned orders granting registration to respondent No.4 society cannot be sustained in law and are liable to be quashed and set aside for the reasons recorded hereinafter.

9. It is not in dispute that the persons who moved the proposal for registration of respondent No.4 society were, at the relevant time, members of the petitioner society. The petitioner society has been in existence since 1986. For more than two decades, the building stood governed by one registered society. The proposal for forming a separate society came much later, in the year 2010. The record further shows that the entire structure, consisting of 10 shops and 56 flats, was constructed under a single sanctioned building plan. There is no material to suggest that the shops were conceived or approved as a separate and independent unit. The building is one composite structure, both in design and in legal character. When a society is formed and registered in respect of a building constructed under one sanctioned plan, all units forming part of that plan ordinarily fall within its fold, unless lawfully separated in accordance with statutory procedure.

10. The core question is not whether the shops can be physically

demarcated from the residential flats. Physical separability by itself does not determine the legal position. Such an inquiry may become relevant where the competent authority exercises statutory power of division or bifurcation under Sections 17 and 18 of the MCS Act, after following due procedure and recording reasons. In the present case, there is no order of bifurcation. The original society continues to subsist. In the absence of a statutory division of the existing society, the authorities could not have permitted registration of another society in respect of premises which already form part of a duly registered cooperative society. Registration under Section 9 cannot be used as a means to indirectly fragment an existing society. If such a course is permitted, it would defeat the scheme of the Act and create overlapping jurisdictions over the same property. The statute contemplates orderly formation, alteration, and division of societies through defined procedures. Those safeguards cannot be bypassed.

11. In my considered view, the authorities have failed to appreciate the legal effect of the prior registration of the petitioner society and the absence of any order under Sections 17 or 18. By treating a portion of the same building as an independent structure without a lawful process of bifurcation, the authorities have misdirected themselves in law. The result is that two societies now claim authority over different parts of one integrated building, which the statute does not contemplate without proper division. This approach amounts to a misapplication of the provisions of the MCS Act and has led to an erroneous exercise of jurisdiction. The impugned orders, therefore, cannot be allowed to stand.

12. Rule is made absolute in terms of prayer clause (a).
13. The writ petition stands disposed of. No order as to costs.

(AMIT BORKAR, J.)