

In the Court of Judge, Co-operative Court Thane at Thane
(Presided over by Smt. B. P. Jadhav, Judge)

Dispute No. CCT 53/2025
CNR No. MHCO04-000061-2025

Mrs. Jayshree Kishorekumar Daswani

Disputant

V/S

Kalpataru Co-operative Housing Society Ltd.
and another

Opponents

Order below application Exh. 5
(Declared on 21/11/2025)

1. The disputant has filed this dispute for declaration and orders against the opponents on the basis of several allegations and averments made in the dispute and prayed as per prayer clause 20(a) to (j).

Along with the dispute the disputant has also filed an interim application at Exh. 5 praying therein that

(a) During pendency of this dispute, an interim injunction to restrain the opponent society from issuing inflated bill, in excess of maintenance charges be issued against the opponent society.

2. It is contended that the disputant has filed the present dispute against the opponent society to declare the bill in excess of the maintenance charges as void, illegal and in contravention of the bye-laws of the society. It is the allegation of disputant that the opponent society have been issuing the said bills despite payment of the maintenance charges under the heading interest and arrears. Despite several requests and reminders by the disputant, failed to provide the details of the interest and arrears amount. They have

raised the amount of Rs. 2,22,401/- towards share of charges including the contribution of the maintenance charges water charges and DPC, without any explanation, justification and clarification.

3. It is contended that if the opponent society keeps on issuing such inflated bills which are in excess of the maintenance charges, this disputant will suffer irreparable and grave and huge loss which cannot be compensated in terms of money.

4. It is contended that the disputant is the bonafide member of the opponent society in respect of the row house No.4, Kalpataru CHS Ltd. The opponent No.1 is a Co-operative Housing Society Ltd. duly registered under the provisions of the Maharashtra Co-operative Societies Act 1960. The opponent No.2 is the chairman and secretary of the opponent No.1 society, looking after the administration, management and maintenance of the society premises.

5. It is contended that the disputant has been regular in paying the maintenance charges, water charges, property tax charges in respect of the said property. The opponent society on 31/05/2023 has issued a maintenance bill with an exorbitant amount of Rs. 4,95,394/- out of which a sum of Rs. 3,91,921/- was the maintenance charges, Rs. 86,377/- towards interest and DPC was Rs. 17,636/-. The disputant has orally objected to the opponent society about the sudden increase of the maintenance charges from Rs. 2990/- as on August 2018 to Rs. 11,490/- as on 31/05/2023 with interest and DPC was unwarranted and against the bye-laws of the society as shown in the statement. Despite several requests the opponent society has not yet provided the documents such as relevant resolution, break ups of the item wise charges etc. in this regard.

6. It is contended that as per the bill No. 97 dated 01/08/2023, the disputant has paid to the opponent society, the sum of Rs. 3,07,078/- being the principal amount of the maintenance charges, by two cheques drawn on IDBI Bank for Rs. 2,05,345/- and for Rs. 1,01,724/-. The disputant did not pay the interest amount of Rs. 1,00,093/- as disputed, as the opponent society failed to provide the documents such as resolution with regard to sudden increase in the maintenance charges without notice and in contravention of bye-law No. 71.

7. It is contended that the opponent society by its reminder letter dated 09/03/2024 has called on the disputant, to pay a sum of Rs. 2,22,401/- which was an utter surprise/shock to the disputant. The said reminder did not specify the break ups of item wise charges and its relevant period, but it states “your share of the charges including contribution of the maintenance charges, water charges and delay payment charges amounting to Rs. 2,22,401/- is outstanding till date.” Despite payment of the principal amount of maintenance charges, to the society, till the period of the said reminder letter dated 09/03/2024, question of payment of interest on the interest due amount, does not arise at all which is nothing but, compound interest as well and is against the rules of the society and the bye-law No. 71 thereof amounts to an ‘excess recovery’ of dues from the member of the society in contravention of the rules and regulations of the society. The disputant is not liable to pay the interest part thereof, which she objected the same, for genuine and lawful reasons. The disputant has received the said reminder letter for the first time since being a member of the society, but without any justification, clarification besides in contravention of the bye-laws of

the said society as well as under the provisions of law.

8. It is contended that the disputant in reply to the above said reminder letter dated 09/03/2024, by her advocate reply notice dated 18/03/2024, addressed to the opponent society, with a copy whereof delivered at the office of the Deputy Registrar, Belapur has replied in a befitting manner, wherein the disputant has asked the opponent society to provide the item wise charges as per its respective heading towards what the said amount of Rs. 2,22,401/- is to be paid by the disputant to the opponent society. By the said notice the disputant also demanded from the society either to refund or to adjust the amount of Rs. 1,00,000/- with interest / DPC paid by the disputant to the society, towards construction cost of the additional FSI, vide receipt dated 04/12/2007 towards the maintenance charges. The disputant did not construct and consume additional FSI. By the above said reply notice, this disputant has also objected the sudden increase of maintenance charges. The opponent society has not yet justified the above said amount nor the said reminder letter till date. Besides the said reminder letter has issued in contravention of the rules and regulations of the society.

9. It is contended that the reply dated 11/04/2024 and the contentions therein of the opponent society, to the disputants advocate notice dated 18/03/2024, are totally baseless, vague and unwarranted.

10. It is contended that by her letter dated 09/11/2024 addressed to the society, thereby sought the clarification from the society, about the payment of Rs. 1,00,000/- (being the 2nd part) paid towards construction cost of the additional FSI, vide receipt dated 04/12/2007 issued by the society. However by the said letter dated

09/11/2024 she also admitted that she received from the society by way of refund, the 1st part of Rs. 1,00,000/- and sought clarification about the above said amount of part 2nd amount of Rs. 1,00,000/- which she did not receive. It shows when the opponent society returned the said amount of 1st part to the disputant, the purported action of the opponent society claiming the amount towards construction of additional FSI with interest, is totally baseless and false as this disputant did not construct additional FSI area.

11. It is contended that the opponent society further failed and neglected to provide the genuine and true reply to her letter dated 11/11/2024 that the opponent society has deliberately and intentionally avoiding to refund the said payment of Rs. 1,00,000/- the 2nd part of FSI charges, paid by the disputant to the society as above. Further the opponent stated that they have adjusted the said amount against the construction of additional FSI. When there was no FSI work done by this disputant to her said row house till date. This disputant shall be legally entitled to claim the said amount of Rs. 1,00,000/- with interest from the due date till payment.

12. It is contended that she has been paying the maintenance charges and other charges thereof regularly and punctually without any hesitation and delay. The disputant has strongly objected (1) the interest part (2) the sudden unjustifiable and exorbitant first time increase of claim of Rs. 2,22,401/- raised by the opponent society, besides without any document in support of their claim which is bad in law. Despite the objections on record, the opponent society has been sending the inflated bills, both the above under one head namely "interest arrears", as shown in the bill No. 31 dated

01/04/2024 which is violative of the bye-laws of the society and applicable provisions of laws.

13. It is contended that the action of the opponent society and its aforesaid functions, resolutions and vague replies, have caused this disputant harassment, huge loss and incurred heavy expenses and due to this, the disputant is put to greater hardship and inconvenience which made her to be suffered both emotionally and mentally day by day.

14. It is contended that the said reminder letter dated 09/03/2024 with a demand of Rs. 2,22,401/- issued by the society which is purely a component of compound interest, levied on the maintenance charges even despite of the same being paid regularly and punctually is bad in law and against bye-law No. 71.

15. From the bare reading of the above bye-laws, clears that “society shall levy interest from the date the amount was delayed till its payment remains unpaid by the member” by which it transpires that once the maintenance charges / due amount is paid, the society shall be barred by law to levy further interest on the interest in a compoundable manner and is violative of the bye-laws of the society. On this ground, the said impugned bill and reminder letter dated 09/03/2024 which has been issued in excess of the amount of maintenance charges, under heading “Arrears”, “interest” are liable to be set aside and canceled and declared to be illegal.

16. It is contended that in the bill dated 31/05/2023 i.e. Rs. 86,377/- and its sudden increase to Rs. 1,00,093/- and further issuance of reminder letter dated 09/03/2024 for the amount of Rs.2,22,401/- and further thereby started levying the interest thereon, as shown in the bill No. 31 dated 01/04/2024, without any

reason and in contravention of bye-law No. 71 is liable to be declared as invalid and illegal in fact, the society should stop issuing such type of inflated bills towards the compound interest thereon, once the disputant paid the due amount to the society for the legitimate reasons mentioned above.

17. It is contended that the action of the society issuing the bills in excess of the maintenance charges at compoundable pattern is arbitrary in nature and in contravention of the bye-laws of the society and liable to be set aside and quashed besides the society should be prevented from issuing such type of inflated bills. Hence the disputant constrained to file the present application for interim reliefs.

18. The opponents are duly served with notices along with the suit summonses.

19. The opponent No. 1 and 2 filed reply at Exh. 9 and denied the entire application and contended that the dispute is not maintainable in law.

20. It is contended that the opponent society have been sending legitimate regular bills to the disputant in respect of maintenance and other charges of the said Row House No.4 from time to time as per the rules and resolutions passed by opponent society from time to time. The disputant has been defaulting in payment of maintenance dues since quite a long time. They are not liable to return any amount of money to the disputant as claimed in her dispute and moreover, disputant has been using, occupying and enjoying the additional constructed area built by consuming the additional FSI in respect of the said Row House No.4 since beginning.

21. It is contended that the opponent society has considered disputant's request for waiver of non-occupancy charges as a special case and the same is reflected in disputants maintenance bill dated 31/05/2023, however, instead of thanking opponent society for the same, the disputant is making false allegations on opponent society and trying to delay payment of legitimate maintenance charges levied by opponent society in respect of the said Row House No.4. The disputant herself has produced various bills of maintenance raised by the opponent society which reveal all the bifurcations. So far as the increase in the maintenance charges is concerned, whenever the same are increased by the opponent society, it is always done in the AGM of the society and hence the same is legal and enforceable upon all the members.

22. It is contended that the opponent society have right issued the receipts in respect of the payment of arrears of the maintenance charges in respect of the said row house No.4 to the disputant from time to time after deducting the payment made by her. Every increase of the maintenance charges is always effected by opponent society only after lawfully passing resolution in the Annual General Meeting of the society and in fact, on disputant's request opponent society also gave her inspection of the society record and documents in May 2023 and disputant was also satisfied with the same at the relevant time.

23. It is contended that the conduct of the disputant in her pleadings where she pleads viz. "disputant did not pay interest amount of Rs. 1,00,093/- as opponent society failed to provide any documents such as resolution with regard to sudden increase in maintenance without notice." The disputant thus authorizes herself

and takes liberty to refuse to pay interest component only and whereas whenever the maintenance charges are increased and the same are always increased with relevant resolution passed by the opponent society in their relevant AGM and the minutes of every AGM are circulated by the opponent society to each of its members. The disputant has no locus standi or any legal right to decide to waive off interest on the arrears of maintenance payable by her to the opponent society and whereas the society is legally entitled to charge the interest on the same which was rightfully done by the society. It is again repeated that the disputant has herself taken inspection of the relevant time and therefore there was no cause of action at all for this dispute and hence the dispute application deserves to be dismissed.

24. It is contended that the disputant also admits that “she paid Rs. 3,07,078/- being the principal amount of the maintenance charges”, which clarifies that the disputant admits that she was in so much arrears of maintenance and she was a defaulter at the relevant time. Therefore the opponent society has rightfully levied the legitimate interest on the defaulted amount and hence same is legal.

25. It is contended that the disputant have been sending regular bill to the disputant in respect of maintenance and other charges of the said row house No.4 from time to time. The disputant never cleared the entire arrears amount and she kept clearing the same in various parts, which ultimately resulted in further levying the interest on the remaining arrears. Therefore as per the record of the society, the opponent society sent the said letter dated 09/03/2024 to the disputant rightfully, though it is not attached with the relevant bill as the opponent society has been sending

regular bills to the disputant society from time to time and the said letter was just a reminder to clear the relevant pending dues at that time.

26. It is contended that when the disputant herself pleads in her dispute that she has paid arrears and interest amounts to the society earlier with huge amounts which sufficiently clarifies that she is entitled to pay interest on defaulted amount of maintenance charges. Ultimately prayed to reject the application with heavy compensatory costs.

27. After hearing both the parties and perusing the documents on record following points arise for my consideration.

Sr. No.	Points	Findings
1	Whether the disputant is entitled for the relief as claimed in this application ?	In the negative
2	What order ?	As per final order

REASONING

AS TO POINT NO. 1

28. So far as the point No. 1 is concerned, I have heard argument of the concerned learned advocates.

29. After careful perusal of the present application in the light of the pleadings of both the parties entire proceeding and say filed by the opponent, it is an admitted fact that opponent No.1 is a Co-operative Housing Society registered as per the provisions of Maharashtra Co-operative Societies Act 1960 and Rules framed thereunder. The opponent No.2 is the secretary/chairman of the opponent No.1 society. The disputant is the member of the opponent society. The disputant have filed the present dispute for the

declaration that the reminder letter dated 09/03/2024 for Rs. 2,22,401/- issued by the opponent society is illegal, for declaration that the bill No. 31 dated 01/04/2024 for Rs. 2,22,401/- with demand of further interest thereon which is in excess of the maintenance bill, issued by the opponent society is illegal, to direct the opponent society to return the said amount of Rs. 1,00,000/- with interest due from the society to the disputant or to adjust the same towards future maintenance charges and/or legitimate interest due amount if any, to direct the opponent society to issue the maintenance bill in future as per bye-law No. 71 of the society mentioned in the bye-laws of the society.

30. The disputant vide this application is praying to restrain the opponent society from issuing inflated bill, in excess of maintenance charges be issued against the opponent society. On the contrary it is the contention of opponent society that the society has been sending legitimate regular bills to the disputant in respect of maintenance and other charges of the said Row House No.4 from time to time as per the rules and resolutions passed by opponent society from time to time. The decision of increase of maintenance is taken in AGM. The disputant has been using, occupying and enjoying the additional constructed area built by consuming the additional FSI in respect of the said Row House No.4 since beginning.

31. According to the opponent society as per the request of disputant it has waived non-occupancy charges as a special case and the same is reflected in disputants maintenance bill dated 31/05/2023.

32. It is admitted that disputant has paid Rs. 3,07,078/-. It is also admitted fact that there is dispute about interest amount.

Considering these pleadings and to decide the controversy involved in the dispute, detail, oral as well as documentary evidence needs to be recorded which is not possible at this stage. Therefore I am of the view that the disputant failed to show the prima facie case and balance of convenience in her favour and irreparable loss would be caused if this application is not allowed. Hence present interim application needs to be rejected. Accordingly I answer point No. 1 in the negative.

AS TO POINT NO. 2

33. For the reasons recorded in context of point No. 1, I answer point No.2 as order below.

Order

1. Interim application at Exh. 51 is hereby rejected.
2. No order as to cost.

Sd/-

Place : Thane
Date : 21 /11/ 2025

(Smt. B. P. Jadhav)
Judge
Co-operative Court, Thane