

MHCO120000502026



**THE HON'BLE JUDGE, CO-OPERATIVE COURT NO.2
PUNE.**

(PRESIDED OVER BY Smt. V. A. MAKANDAR)

Dispute No.49/2026

Meena Kerur

..... Disputant

V/s

Sneh Prabhat Cooperative

Housing Society And Others.

..... Opponents

ORDER BELOW EXH.16

(Passed on 01/04/2026)

1. The present application has been filed by the Opponent under **Order VII Rule 11 of the Code of Civil Procedure, 1908**, seeking rejection of the dispute.

2. The learned Advocate for the Opponent submits that the Disputant has filed the present dispute for declaration and injunction, inter alia praying that the resolutions passed and final declaration dated 05/03/2026 at the Special General Body Meeting approving the development agreement be declared illegal and set aside, along with the notice dated 12/03/2026 for the Special General Body Meeting dated 22/03/2026, and further seeking permanent injunction restraining execution of the development agreement and other consequential reliefs.

3. It is submitted that all the reliefs and allegations are directed against the alleged Society and its office bearers. The

Opponent No.1 is a duly registered Tenant Co-partnership Housing Society registered on 31/05/2025 by the Deputy Registrar bearing Registration No. Pune City I/PNA/PNA(1)/HSG/TC/28344/2024-2025, with approved bye-laws, thereby constituting a body corporate under law with perpetual succession and capacity to sue and be sued. However, the Disputant has filed the present dispute against "Sneh Prabhat Co-operative Housing Society" and its Chairman, though no such Society exists in law, nor is Opponent No.2 the Chairman of such Society. It is further submitted that under Section 91 of the Maharashtra Co-operative Societies Act, only disputes touching the constitution, elections, management or business of a Society between specified parties are maintainable before the Co-operative Court; however, in the present case, Opponent No.1 is not the Society as described, the Disputant is not its member, and Opponent No.2 is not its Chairman, and therefore the dispute is not maintainable and this Hon'ble Court lacks jurisdiction to entertain the same.

4. It is submitted that, the issue goes to the root of the matter, and since the dispute is barred by law, it cannot be proceeded with. This Hon'ble Court has power to reject the dispute at the threshold under Order VII Rule 11 CPC where it does not disclose cause of action or appears to be barred by law, and in the present case, the dispute is liable to be rejected as it is filed against a non-existent entity and no relief can be granted against such a non-existent person in the eyes of law.

5. The learned Advocate for the Disputant filed his say vide Exhibit 18 and opposed the present application.

6. It is submitted that, though the Opponent seeks rejection of the plaint under Order VII Rule 11(a) and (d) of the Code of Civil Procedure, the Opponent has failed to disclose any legal basis or material facts warranting rejection of the plaint. It is further submitted that the Opponent has made false statements and suppressed material facts and documents. The Disputant submits that under the Maharashtra Co-operative Societies Act, co-operative housing societies are classified as tenant co-partnership or co-ownership societies, and such classification does not alter their legal identity as a co-operative housing society. It is submitted that Sneh Prabhat Tenant Co-Partnership Co-operative Housing Society is a duly classified co-operative housing society, and for all purposes remains a co-operative housing society. The Opponent itself has used a seal identifying it as "Sneh Prabhat Co-operative Housing Society Ltd." and is therefore estopped from denying its identity as stated in the cause title

7. It is further submitted that the registration certificate placed on record clearly establishes the identity of the Society, and mere omission to mention its classification does not render the dispute non-maintainable nor can it be a ground for rejection under Order VII Rule 11 CPC. The Disputant submits that the dispute is properly filed under Section 91 of the Maharashtra Co-operative Societies Act, and discloses a valid cause of action. The Disputant admits contents relating to reliefs sought and description of the Society only to that limited extent, while denying all contrary averments.

8. It is further submitted that the Opponent has itself appeared before this Hon'ble Court in response to a summons is-

sued in the name mentioned in the cause title, thereby establishing that no prejudice or confusion has been caused. The contentions raised by the Opponent regarding the non-existence of the Society are false, contradictory to its own records, seal, correspondence, and registration certificate.

9. It is submitted that no ground is made out for rejection of the dispute, and the application is a clear abuse of process intended to delay proceedings. It is a settled principle of law that procedural technicalities should not defeat substantive justice, and therefore, the present application deserves to be dismissed.

10. Heard both the advocates at length. Perused record.

Heard learned advocates for both parties at length.

11. Before deciding the present application, we must go through the legal provision, i.e. Order 7 Rule 11(d) of C.P.C provides an opportunity to the opponents to present a threshold challenge to the maintainability of the dispute and avoid being subjected to the trial. While deciding the application for seeking rejection of the plaint under Order 7 Rule 11 of C.P.C the court has to confine itself to the averments in the plaint and cannot travel beyond that. The court is not supposed to scrutinise, appreciate the evidence or test the evidence set up by the defendant. This is simply because the court cannot conduct mini trial and test the case meticulously at the initial stage. The court has to, therefore, confine itself to the examination of the plaint/dispute application alone.

12. ***Order 7 Rule 11 of the Civil Procedure Code, i.e. when a plaint can be rejected if:***

(a) It does not disclose a cause of action, or

(d) The suit appears from the statement in the plaint to be barred by any law.

13. Before deciding the present application, it is necessary to refer to the principles laid down by **the Hon'ble Supreme Court in *Saumitra Kumar Sen vs. Shyam Kumar Sen, (2018) 5 SCC 644***, wherein it has been held that while considering an application under Order VII Rule 11 of the Code of Civil Procedure, the Court must confine itself to the averments made in the plaint alone and cannot travel beyond them. The Court is not required to scrutinise or appreciate evidence or to examine the defence set up by the defendant. The very purpose of this provision is to prevent a mini-trial at the threshold stage.

14. Upon careful consideration of the pleadings and the averments contained in the dispute application, this Court finds that the objection raised by the Opponent primarily rests on the alleged misdescription or non-existence of the Society as stated in the cause title. However, a plain reading of the dispute it clearly indicates that the Disputant has challenged resolutions and actions arising out of the affairs and management of a co-operative housing society, and has sought declaratory as well as injunctive reliefs in respect thereof. Thus, the dispute, on the face of the plaint, pertains to the business and management of a co-operative society and squarely falls within the ambit of Section 91 of the Maharashtra Co-operative Societies Act, 1960.

Section 91(1) of the Maharashtra Co-operative Societies Act, 1960 provides that any dispute touching the *constitution, elections, general meetings, management, or business of a society* shall be referred to the Co-operative Court, provided the parties include a society, its committee, members, or persons claiming through members.

15. Upon perusal of the record, particularly the registration certificate placed on record, it sufficiently establishes that the Society is registered as “Sneh Prabhat Co-operative Housing Society Limited,” and therefore, mere omission by the Disputant to mention the word ltd. Does not alter its legal identity nor render the dispute non-maintainable. Such omission, at the highest, amounts to a defect in description and cannot be a ground for rejection of the plaint. It is well settled that a plaint can be rejected under Order VII Rule 11 of the Code of Civil Procedure only if it does not disclose a cause of action or if it appears from the statements in the plaint to be barred by law. In the present case, the dispute, on the face of the plaint, clearly pertains to the management and affairs of a co-operative housing society and is therefore maintainable under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

16. Moreover, even assuming the objection of the Opponent to be correct, the same would at best amount to a curable defect and does not go to the root of the jurisdiction of this Court. It is a settled principle that technical defects which do not cause prejudice or failure of justice cannot be elevated to a ground for rejection of the plaint.

17. In view of the above, following order is passed.

ORDER

1. The application filed by the Opponents under Order VII Rule 11 of the Code of Civil Procedure for rejection of the dispute is hereby rejected.
2. No order as to costs.

Date: 01/04/2026**Place: Pune****(V. A. Makandar)****Judge,****Co-operative Court No.2, Pune**