

MHCO120002142025



**IN THE COURT OF JUDGE, CO-OPERATIVE COURT NO.
I, PUNE.**

(Presided over by Smt. A. V. Jadhav-Judge)

Dispute No.192/2025

Shri. Nilesh Suresh Gundale & ors. :-Disputants

V/s

Nira Sahakari Society Ltd & ors. :-Opponents

ORDER BELOW EXH. NO. 13

(Date:- 09/10/2025)

1. Opponent society has filed the present application under Order 7 Rule 11 of CPC and submitted that the disputants have filed the present dispute for declaration and injunction against the opponents inter alia praying that the resolution passed in the managing committee meeting held on 03/06/2025 appointing opponent No. 5 as Assistant Secretary be set aside. The disputants also asked for stay to the implementation of the said resolution and also prayed to

restrain them from functioning. The disputants have also asked for injunction on the same line.

2. As per the resolution passed in the said meeting the opponent No.5 is appointed as temporary secretary cum clerk of the society and she started functioning and resumed her duties. In short the opponent No.5 is appointed as employee clerk of the society.

3. By way of said dispute the disputants have challenged the appointment of opponent No.5 as clerk employee. It is submitted that the dispute between the employee and employer as well as about the appointment, scale, promotion, demotion etc., are out of the purview of the section 91. Infact, it is industrial dispute as per the Industrial Dispute Act 1947 and therefore it cannot be said to be dispute for the purpose of Section 91. Therefore, this Hon'ble Court has no any right and authority to proceed with the same, entertain the same or decide the same. Therefore, it is barred by law.

4. It is submitted that the present issue goes to the root of the matter and therefore required to be decided before proceeding further and the matter is required be dismissed being not maintainable and without jurisdiction and being barred by law.

5. Disputant filed say below Exh. 15 and submitted that the validity of the said resolution is only for a period of one

year and hence the opponents want to just prolong the matter by hook or crook. It is further submitted that the entire dispute pertains to the resolutions passed in the meeting of the managing committee passed on 03/06/2025, via resolution No. 2(a) 2(c) and 2 (d), which resolutions are totally contrary to the proviso of the bylaws. It is further submitted that the opponents society by way of guise of brute majority are trying to act totally contrary to the provisions of the Act and the bylaws of the society, which has necessity filing of the present dispute.

6. In fact such appointment is totally contrary to the provisions of bylaws. For considering the provisions of Order 7 Rule 11 of CPC, the entire pleading of the dispute are required to be seen and considered. The entire pleading and more particularly the pleading with respect to the opponent No. 5 is in respect of the resolution No. 2(A) passed in the meeting of the managing committee held on 03/06/25 and it nowhere states that the opponent No.5 is the employee of the opponent society. The entire contentions is that the said opponent has been appointed totally contrary to the provisions of the bylaws and hence the said resolution is illegal.

7. The opponents have failed to consider the reliefs sought and the pleading which clearly show that the dispute is fully covered under the provisions of Section 91 of the

M.C.S. Act, the resolutions passed being illegal and contrary to the provision of law have been challenged in the dispute and this Hon'ble Court has jurisdiction to decide the dispute under Section 91 of the M.C.S. Act and therefore the application filed by the opponent is not legal and hence, requested to reject the application by way of compensatory cost.

8. Heard Ld. Adv. Smt. Madhuri Vaidya for disputants and Ld. Adv. Shri. Abhay Inamdar for opponents.

Reasons

9. To decide the application, I have gone through the provisions under Order VII, Rule 11 of C.P.C., it reads as under;

11. Rejection of plaint- The plaint shall be rejected in the following cases.

- a) Where it does not disclose a cause of action;*
- b) Where the relief claimed as undervalued, and the plaintiff, on being required by way the court to so correct the valuation within a time to be fixed by the court, fails to do so;*
- c) Where the relief claimed is properly valued, but.....*
- d) Where the suit appears from the statement in the plaint to be barred by any law;*

e) Where it is not filed in duplicate.

f) Where the plaintiff fails to comply with the provisions of rule.

10. After going through the above provision, it appears that, the provision of Order 7 Rule 11 (d) of C.P.C. would be attracted only in case, whereby, from the statement in the plaint to be barred by any law.

11. It is the settled position of law that, while deciding the application under Order VII, Rule 11 of the C.P.C., pleading and prayers of the dispute are required to be considered. Hence, to decide the present application, I have gone through the pleading of the dispute.

Dispute in nutshell

12. Disputants have filed the present dispute for declaration & injunction. It is the contention of the disputants that the opponent no. 2 is the chairman of the opponent no. 1 society and opponent no. 3 is newly appointed functional director, opponent no. 4 is newly appointed expert director. The opponent no. 5 is newly appointed as assistant secretary cum clerk. The said opponents are the members of the opponent no. 1 society. The appointment of the opponent nos. 2 to 4 have been made by resolution no. 2 (a) (c) (d) passed in the meeting of the managing committee held on

30/06/2025. And therefore disputants prayed in the dispute as follows.

- i) The resolution passed in the meeting of the managing committee held on 03/06/2025 via resolution no. 2 (a), 2 (c) and 2 (d) thereby appointing the opponent no. 3 to 5 for the post of functional Directors, Expert Directors and Assistant Secretary respectively may kindly be quashed and set aside.
- ii) The operation and implementation of the resolution no. 2(a). 2(c) and 2(d) passed in the meeting of the Managing Committee held on 03/06/2025, may kindly be stayed.
- iii) The opponent no. 3 to 5 may be restrained from functioning as the functional Directors, Expert Directors and Assistant Secretary respectively.
- iv) The opponent no. 3 to 5 be restrained from attending meeting and/or using the said resolutions for the personal benefits to interfere in the affairs of the society during the pendency of the present dispute.
- v) The opponent no. 1 be restrain by an order of permanent injunction from implementation of the resolution no. 2(a), 2(c) and 2(d) passed in the meeting of the managing committee held on 03/06/2025.

vi) Pending the final disposal of the dispute the operation and implementation of the resolution no. 2(a), 2(c) and 2(d) passed in the meeting of the managing committee held on 03/06/2025, may kindly be stayed.

vii) The opponent no. I be restrain by an order of temporary injunction from implementation of the resolution no. 2(a), 2(c) and 2(d) passed in the meeting of the managing committee held on 03/06/2025.

viii) Ad- interim order of injunction in term of prayer clause no. (vii) may kindly be granted.

ix) Costs be awarded to the disputants from the opponents.

X) Any other just and equitable order in the interest of justice may please be passed.

13. It appears from pleadings and prayers dispute that disputant are challenging the resolutions passed by the opponent society in the managing committee meeting dated 03/06/2025 thereby opponent no. 3 is appointed as functional directors and opponent no. 4 is appointed is expert directors. Disputants in the present dispute not only challenged the resolutions passed with respect to the opponent no. 5 but also challenged the resolutions passed

with respect to opponent nos. 3 and 4 . Disputants are being members of opponent no. 1 society can challenge the resolution under Section 91 of the M.C.S. Act and this court has jurisdiction to decide the dispute on merit. The plaint of the present dispute cannot be rejected under Order 7 Rule 11 of C.P.C. the grounds mentioned in the application. Hence, I proceed to pass the following order.

ORDER

1. Application is rejected.
2. No order as to cost.

(Smt. A. V. Jadhav)

Date: 09/10/2025

Place: Pune

Judge,

Co-operative Court No. I, Pune.