

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

WRIT PETITION NO. 8034 OF 2025

Monarch Cooperative Housing Society Ltd. ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Vaibhav Ugle h/f Vikas Somawanshi for the Petitioner.
Mr. P. V. Nelson Rajan, AGP for State-Respondent Nos.1 to 3.

**CORAM: MANISH PITALE, J.
DATE : 24th JUNE 2025**

P.C. :

- . Heard learned counsel for the petitioner.
2. By this petition, the petitioner has challenged impugned orders passed by the Authorities below, whereby membership of the society has been granted to respondent Nos.4 and 5.
3. The learned counsel for the petitioner submits that the said respondents purchased a flat in the society in the process of e-auction and the notice of e-auction specifically contained a condition that the auction purchaser would have to pay the pending and future dues, including maintenance dues to the society. In this context, the learned counsel for the petitioner specifically relied upon a certificate of sale at page 80, wherein reference is made to the e-auction sale notice, recording that the property concerned was being sold on as is where is basis and what is as is basis with a specific stipulation that the purchaser

would have to pay pending and future dues, including maintenance dues to the society.

4. The petitioner has indeed made out a *prima facie* case in its favour to contend that unless the dues payable to the society are cleared by the respondent Nos.4 and 5, they cannot be directed to be added as members of the society.

5. The Authorities below *prima facie* do not appear to be justified in relying upon mere fact that the petitioner-society filed a dispute under Section 91 of the Act before the Cooperative Court for recovery of such dues from the respondents, for the simple reason that such a dispute would be maintainable only against members and the respondents were yet to be added as members.

6. Issue notice, returnable on **7th August 2025**.

7. Mr. Nelson, AGP, waives notice for respondent Nos.1 to 3.

8. The petitioners are permitted to additionally serve respondent Nos.4 and 5 by way of private service and to file an affidavit of service within two weeks from today.

9. In the meanwhile and till the next date of listing, there shall be ad-interim stay in terms of prayer clause (c).

MANISH PITALE, J.