IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6144 OF 2026

Uday Patil & Ors. ***...Petitioners***

V/s.

Mr. Paresh Satyendra Vohra & Ors. ***...Respondents***

Mr. Raghav Dharmadhikari i/by Adv. Akshay D. Shukla, for the Petitioners.

Mr. Surel S. Shah, Senior Advocate with Mr. Sandesh Deshpande i/by Adv. Prithviraj Sanjay Gole for Respondent No. 1.

Ms. S. D. Chipade, AGP for Respondent - State

CORAM: SANDEEP V. MARNE, J.

Judgment Resd. On: 29 July 2026.

Judgment Pron. On: 05 August 2026.

JUDGMENT:

THE CHALLENGE:

1) By this Petition, the Petitioners, who are members of a de-registered Co-operative Society, have challenged order dated 23 June 2025 passed by the Hon'ble Minister (Co-operation) dismissing Appeal

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

No. 565 of 2024 and confirming the Order of de-registration dated 15 July 2024 passed by the Divisional Joint Registrar, Co-operative Societies, Konkan Division, Mumbai **(Divisional Joint Registrar)**. By his Order dated 15 July 2024, the Divisional Joint Registrar has allowed Application No. 15 of 2020 filed by Respondent No.1 and has directed cancellation of registration granted to Hatkesh Udyog Nagar Industrial Premises Co-operative Housing Society Ltd. **(Society)** vide Certificate dated 11 November 2008. The Divisional Joint Registrar has also directed the Registrar to appoint an Official Assignee in respect of the Society under Section 21A(2) and (3) of the Maharashtra Co-operative Societies Act,1960 **(MCS Act)**.

FACTS:

2) Land bearing Survey No.94 admeasuring 1 Hectare 56.82 Ares and Survey No.97/3 admeasuring 10.12 Ares, Village-Ghodbunder, Tal & Dist-Thane was owned by Smt. Dayabai Gajanan Patil, who sold the same vide sale-deed dated 21 October 1975 to Shri. Rasiklal Trikam Lal Shah. By further sale-deed dated 19 July 1980, Shri. Rasiklal Trikam Lal Shah sold the land to M/s. Hatkesh Builders. Similarly, another parcel of land bearing Survey No.95 admeasuring 5 Acres, 4 1/2 Gunthas and Survey No.96 admeasuring 2 Acres and 4 1/2 Gunthas, Village-Ghodbunder, Tal & Dist-Thane was sold by Smt. Dayabai Gajanan Patil to Shri. Chandrakant Babulal Shah on 29 October 1978. By further agreement dated 1 November 1978, Shri. Chandrakant Babulal Shah sold the said land to M/s. Hatkesh Builders. The third parcel of land bearing Survey No.95 admeasuring 5059 sq.mts at Village-Ghodbunder was sold

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

by one Mr. Babubai Patil on 29 October 1978 to Shri. Govind Moreswar Patil. By further agreement dated 18 July 1979, Shri. Govind Moreswar Patil sold the third parcel of land to M/s. Hatkesh Builders. This is how the entire land admeasuring about 50,900 sq.mts is claimed to be in the ownership of M/s. Hatkesh Builders.

3) In the land so owned by M/s Hatkesh Builders, about 72 industrial galas/units have been constructed since the year 1979-80. The units were apparently sold by M/s. Hatkesh Builders to various purchasers. The purchasers of the units applied for registration of a co-operative industrial premise society and by Certificate of registration dated 11 November 2008, Respondent No. 6-Society was registered.

4) Respondent No.1 is the proprietor of M/s. Hatkesh Builders. It is claimed that he acquired knowledge about registration of the society after receipt of summons in R.C. Suit No. 582 of 2013. Respondent No.1 claims that registration of the society was made behind his back and by submitting forged and fabricated documents. The well-wisher of Respondent No.1 applied for certified copies of the documents filed at the time of registration of the society. After securing copies of the documents, Respondent No. 1 filed Misc. Application No. 5 of 2015 before the Divisional Joint Registrar seeking de-registration of Respondent No.6-Society under the provisions of Section 21A of the MCS Act. The Society opposed the application by filing reply dated 27 October 2015. The de-registration application was initially rejected on 26 December 2016 on the ground of delay, but the Hon'ble Minister set aside that order on 27 November 2020 and remanded the matter for fresh

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

adjudication. The Hon'ble Minister order dated 27 November 2020 was challenged before this Court and this Court remanded the proceedings to Hon'ble Minister by order dated 3 February 2021. By a fresh order passed on 10 May 2021, the Hon'ble Minister once again remanded the proceedings to the Divisional Joint Registrar for fresh adjudication on merits. The remand order passed by the Hon'ble Minister was challenged before this Court, which ultimately upheld the order dated 10 May 2021 by dismissing Writ Petition No. 2250 of 2021 on 15 March 2024. Consequently, Misc. Application No. 5 of 2015 was renumbered as Misc. Application No. 15 of 2020.

5) Misc. Application No.15 of 2020 preferred by Respondent No.1 was allowed by the Divisional Joint Registrar by order dated 15 July 2024 holding that registration of the Society was based on misrepresentation. While allowing the Application, the Divisional Joint Registrar has directed cancellation of certificate of registration dated 11 November 2008 of Respondent No.6-Society and has appointed Official Assignee in respect of the Society .

6) Petitioners, who are members of the de-registered society, preferred Appeal No. 565 of 2024 before the Hon’ble Minister (Co-operation) challenging the order of the Divisional Joint Registrar dated 15 July 2024. The Hon'ble Minister has however dismissed the Appeal of the Petitioners by order dated 23 June 2025. Petitioners have accordingly filed the present petition challenging the orders passed by the Hon'ble Minister and the Divisional Joint Registrar. By order dated 4 May 2026,

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

this Court has granted ad-interim relief in favour of the Petitioners by staying the orders dated 15 July 2024 and 23 June 2025.

7) The Petition is taken up for final disposal by grant of ***Rule*****.** Rule is made returnable forthwith. The learned counsel appearing for Respondent No.1, who is the main contesting party, has waived the service of the Rule.

SUBMISSIONS:

8) Mr. Dharmadhikari, the learned counsel appearing for the Petitioners submits that the Divisional Joint Registrar has grossly erred in exercising power under Section 21A of the MCS Act for directing de-registration of Respondent No.6-Society which was registered in the year 2008. That none of the grounds enumerated under Section 21A exist in the facts and circumstances of the present case. That the Divisional Joint Registrar has acted as an appellate authority over the order of registration. That Respondent No.1 did not prefer Appeal against registration of the society and that the order of registration of the society has thus attained finality. That power of de-registration under Section 21A cannot be exercised in a casual manner unless one of the enumerated grounds are made out in the facts of a case. That de-registration of the society is ordered mainly on the ground of construction being unauthorised. He relies on judgment of this Court in ***Sukhsagar Co-operative Housing Society Limited and another Versus. State of Maharashtra and others***[1] in support of his contention that mere

1 2004 (3) MH.L.J. 1010

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

absence of development permission cannot be a ground for refusal to register a Co-operative Society. He also relies on judgment of this Court in ***Airoli Neha Apartments Co-operative Housing Society Limited Versus. State of Maharashtra & Ors.***[2] in support of his contention that illegality or irregularity in construction of the building cannot be a ground for de-registration of the society. He submits that submissions of documents relating to Survey No. 365 at the time of registration of the society was a mere genuine mistake. That Respondent No.1 himself claims to have secured permission from Ghodbunder Gram Panchayat for construction of the industrial units. That therefore providing of inaccurate information at the time of registration of the society does not make out a ground of misrepresentation under Section 21A of the MCS Act. In support, he relies on judgment of this Court in ***Elite Diagnostic Center Private Limited Versus. Krishna Kunj, Co-operative Housing Society Limited***[3]. He submits that the Society has been managing the affairs of the industrial complex for the last 18 long years and the members of the Society would suffer irreparable injury if the Society is de-registered at this stage. That de-registration is sought by the Respondent No.1 with an oblique motive to take over control of the land. That if there is no permission, it was a mistake on the part of Respondent No.1 and he cannot be permitted to take benefit of his own mistake. Mr. Dharmadhikari would pray for setting aside the orders of the Divisional Joint Registrar and the Hon'ble Minister.

2 2023 (3) MH.L.J. 529

3 WP No. 7855 of 2026 decided on 2 July 2026

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

9) Mr. Shah, the learned Senior Advocate appearing for Respondent No.1 opposes the petition. He submits that two authorities have concurrently recorded findings of facts about fraud, misrepresentation, forgery etc. That registration of the society was obtained by misleading the Registrar. That the property mentioned in the Application was Survey No. 365, Hissa No.1(P) 3(P) of Village-Bhayandar and by applying whitener, the address was changed to Survey Nos.94, 95, 96 and 97 of Village-Ghodbunder. That the letter of Registrar for reserving the name and for opening of bank account was also in respect of land bearing Survey No. 365 of Village- Bhayandar and that whitener was applied even on this document. That in several other documents in the proposal for registration, whitener was applied and the description of the property was changed to Survey Nos.94, 95, 96 and 97 of Village-Ghodbunder. That along with the application, Building Completion Certificate dated 29 October 1985 issued by Gram Panchayat, Navghar, Bhayandar (East) pertaining to land bearing Survey Nos.94, 95, 96 and 97 was submitted. That the land is actually situated in Ghodbunder for which Gram Panchayat, Ghodbunder had issued Commencement Certificate on 30 January 1979. Thus, a fraudulent document issued by Navghar Gram Panchayat was relied upon for registration of society in respect of land located at Ghodbunder. That even the notice issued to Respondent No.1 by the Registrar, indicated address of the Society as Survey No. 365 of Village-Bhayandar. That by relying on documents in respect of an altogether different land at Survey No. 365 of Village Navghar, registration was secured in respect of land bearing Survey Nos. 94, 95, 96 and 97 of Village-Ghodbunder. That thus the registration is clearly secured by relying on fraudulent documents

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

and the same is correctly cancelled by the Divisional Joint Registrar. Mr. Shah has also relied on judgment of this Court in ***Elite Diagnostic Center Private Limited*** (supra) in support of his contention that if information for seeking registration turns out to be forged or fabricated, power of de-registration can be exercised. He also relies on judgment of this Court in ***Waghamay Mahila Machchimar Sahakari Sanstha Maryadit, Botha (SA) Versus. Commissioner of Fisheries Taraporevala Aquarium Mumbai***[4] in support of his contention that the term 'misrepresentation' means and includes a positive assertion of a fact in a manner not warranted by the information and that if the material submitted for grant of registration is found to have been misrepresented, power of de-registration can be exercised. That in the judgment, it is held that misrepresentation need not be fraudulent, and it can even be an incorrect presentation of those aspects necessary for the grant of registration. Mr. Shah submits that on the basis of fraudulent registration of the society, the Petitioners are preventing Respondent No.1 from even entering into the property. He accordingly prays for dismissal of the petition.

CONSIDERATION OF SUBMISSIONS, REASONS AND ANALYSIS:

10) The issue involved in the present Petition is about correctness of exercise of power of de-registration by the Divisional Joint Registrar under Section 21A of the MCS Act. Respondent No.6-Society has been registered on 11 November 2008. Ordinarily, a person aggrieved by an order of registration of the society can file an appeal under Section

4 2020(1)MH.L.J. 864

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

152 of the MCS Act. In the present case, Respondent No.1 did not prefer an appeal against the registration order dated 11 November 2008. He raised a plea of ignorance about registration certificate dated 11 November 2008. Respondent No.1 claimed that he acquired knowledge about the registration after receipt of summons in R.C. Suit No. 582 of 2013 and thereafter took out certified copies of documents submitted along-with registration proposal. Even after acquiring knowledge about registration of the society vide certificate dated 11 November 2008 or upon receipt of summons in R.C. Suit No. 582 of 2013, Respondent No.1 could have filed an Appeal under Section 152 challenging the order of registration by seeking condonation of delay. Respondent No.1 was however advised to apply for de-registration of the society under Section 21A of the MCS Act.

STATUTORY SCHEME OF DE-REGISTRATION:

11) Under Section 21A of the MCS Act, a Registrar is vested with power to de-register the society in the event he is satisfied that the society is registered on misrepresentation made by the Applicants or where the work of the society is complete/exhausted or the purposes for which the society has been registered are not served. The last eventuality for de-registration is with regard to use of the word 'bank', 'banking', 'banker' or any other derivative word of the bank in the name of agricultural co-operative credit society. Thus, against the wider remedy of filing an appeal under Section 152 of the MCS Act for challenging the order of registration passed under Section 9, the power of the Registrar under Section 21A is much narrower and can be exercised only if one out

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

of the four enumerated grounds is made out. While exercising appellate powers, the Registrar can re-appreciate the material on record and arrive at a finding different from the one recorded by the Assistant Registrar while exercising the power of registration. On the other hand, when de-registration of an already registered society is sought under Section 21A, the scope of jurisdiction narrows and the Registrar can exercise the power only if he records a satisfaction about existence of one of the four enumerated eventualities. For the purpose of the present case, the first eventuality of 'misrepresentation' is relevant. Section 21A of the MCS Act provides thus:

> **21A. De-registration of societies.—**
>
> (1) If the Registrar is satisfied that any society is registered on mis-representation made by applicants, or where the work of the society is completed or exhausted or the purposes for which the society has been registered are not served [or any primary agricultural co-operative credit society using the word 'Bank', 'Banking', 'Banker' or any other derivative of the word 'Bank' in its name,] he may, after giving an opportunity of being heard to the Chief Promoter, the committee and the members of the society, de-register the society
>
> Provided that, where the number of members of the society is so large and it is not possible to ascertain the correct addresses of all such members from the records in the office of the Registrar and, in the opinion of the Registrar it is not practicable to serve a notice of hearing on each such individual member, a public notice of the proceedings of the de-registration shall be given in the prescribed manner and such notice shall be deemed to be notice to all the members of the society including the Chief Promoter and the members of the Committee of the Society, and no proceeding in respect of the de-registration of the society shall be called in question in any Court merely on the ground that individual notice is not served on any such member.
>
> (2) When a society is de-registered under the provisions of sub-section (1), the Registrar may, notwithstanding anything contained in this Act or any other law for the time being in force, make such incidental and consequential orders including appointment of Official Assignee as the circumstances may require.

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

> (3) Subject to the rules made under this Act, the Official Assignee shall realise the assets and liquidate the liabilities within a period of one year from the date he takes over the charge of property, assets, books, records and other documents, which period may, at the discretion of the Registrar, be extended from time to time, so however, that the total period does not exceed three years in the aggregate.
>
> (4) The Official Assignee shall be paid such remuneration and allowances as may be prescribed; and he shall not be entitled to any remuneration whatever beyond the prescribed remuneration or allowances.
>
> (5) The powers of the Registrar under sub-sections (1) and (2) shall not be exercised by any [officer below the rank of a Joint Registrar of Co-operative Societies].

12) Recently in ***Elite Diagnostic Center Private Limited***, (supra) this Court had an occasion to deal with the broad contours of jurisdiction to be exercised by the Registrar under Section 21A while ordering de-registration of a society. This Court has held in paras-18 and 25 of the judgment as under:

> 18) Under sub-section (1) of Section 21A, the Registrar can order de-registration of the Society only if (i) the Society is registered on misrepresentation made by the Applicants, (ii) where work of the Society is complete or exhausted, (iii) the purposes for which the society has been registered are not served and (iv) if agricultural co-operative credit society uses the words like 'bank', 'banking', 'banker' etc. Except these four eventualities, the Registrar cannot exercise the power of de-registration of the society. In the present case, admittedly ground nos. 2 to 4 enumerated above neither exist nor were alleged by the Petitioner before the Divisional Joint Registrar. This leaves only the ground of 'misrepresentation made by applicants' for the purpose of exercise of jurisdiction under Section 21A of the MCS Act in the present case. It is this ground of misrepresentation, which was pressed into service by the Petitioner for seeking de-registration of the society. The Divisional Joint Registrar had recorded a finding of misrepresentation while ordering de-registration of the Society by order dated 3 September 2024.

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

> 25) I am in agreement with the findings recorded by the Hon'ble Minister. The remit of enquiry under Section 21A of the MCS Act is in extremely narrow compass. As observed above, there is a separate remedy of filing Appeal against registration of the society under Section 152 of the Act, which is a much broader remedy. The power of de-registration is to be exercised in rare circumstances where one out of the four enumerated circumstances under Section 21A is made out. The first circumstance of 'misrepresentation' is not to be misunderstood as giving wide or unbridled power on the Registrar of recalling the decision of registration. While exercising the power under Section 21A, the Joint Registrar cannot sit in appeal over the decision of the Assistant Registrar. It is only in a rare case where registration of the society is based on misrepresentation by the Applicants that the power of de-registration can be exercised. The misrepresentation must be of such nature and degree that if not made, the society would not have been registered. Mere giving of inaccurate or incomplete information cannot be a misrepresentation capable of de-registering the society. The misrepresentation must be noticed in the information given while seeking registration. The information on the basis of which registration is obtained must be demonstrated as false or the documents submitted must be demonstrated as forged or fabricated. Misrepresentation cannot be assumed on the basis of events occurring subsequent to the registration of the society.

13) Thus, when de-registration of a society is sought under Section 21A of the MCS Act by invoking the ground of '*misrepresentation,*' it must be demonstrated that the information, on the basis of which registration is obtained, was false or that the documents submitted at the time of registration were forged or fabricated. The misrepresentation must be of such a nature and magnitude that if the same was not made, the Registrar would not have registered the society. Non-disclosure of full information or giving of inaccurate or incomplete information may not always amount to misrepresentation within the meaning of Section 21A of the MCS Act warranting de-registration of the society. The power of de-registration under Section 21A on the ground of misrepresentation therefore cannot be exercised in a casual manner by readily accepting the

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

objection of the objector about falsity in the information or forgery in the documents. The Registrar must apply his mind to the entire material on record and arrive at a finding as to weather whether the society could have been registered if the misrepresentation had not been made. The word 'misrepresentation' appearing in sub-section (1) of Section 21A therefore needs to be understood contextually meaning thereby that the misrepresentation must go to the root of the matter and upon being discovered, render the very registration *ab-initio* void. If the society is otherwise not registrable, but registration is secured by giving false or misleading information or by submitting forged or fabricated documents, the power of de-registration under Section 21A can be exercised.

14) In the present case, Respondent No.1 is the owner and developer of the land on which he undertook a scheme of construction of industrial units in the late seventies. The order of the Divisional Joint Registrar would indicate that since 1979-80, about 72 industrial units are constructed on the concerned land bearing Survey Nos.94 to 97 of Village-Ghodbunder. The industrial units have been sold by Respondent No.1 to various purchasers who came together and decided to form a Co-operative Society for the purpose of collective management of the entire property. By the time, decision was taken for formation of the society, a period of over 28 years had passed from construction of some of the units. On 30 June 2008, the then Chief Promoter of the Society made an application for reservation of name of the Society and for opening of bank account. The Deputy Registrar issued a letter dated 30 June 2008 for reservation of the name and for opening of a bank account. Thereafter, application was made for registration of the Society on 1 October 2008.

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

The registration certificate has been granted on 11 November 2008. As observed above, Respondent No.1 had available the remedy of filing Appeal against the registration certificate dated 11 November 2008 which he had failed to avail. Instead, he opted for seeking de-registration of the society under Section 21A by filing Misc. Application No.5 of 2015. By order dated 26 December 2016, the Application was initially rejected citing the reason of delay. The rejection order was challenged before the Hon'ble Minister who passed order dated 27 November 2020 remanding the proceedings for fresh adjudication. The order passed by the Hon'ble Minister was challenged by the Society by filing a petition before this Court. This Court remanded the proceedings to Hon'ble Minister by order dated 3 February 2021. By a fresh order passed on 10 May 2021, the Hon'ble Minister once again remanded the proceedings to the Divisional Joint Registrar for fresh adjudication on merits. The order passed by the Hon'ble Minister on 10 May 2021 was once again challenged by the Society by filing Writ Petition No. 2250 of 2021 which was rejected by this Court vide order dated 15 March 2024. This is how Misc. Application No.5 of 2015 was renumbered as Misc. Application No.15 of 2020 and was taken for decision by the Divisional Joint Registrar on merits.

FINDINGS RECORDED BY DIVISIONAL JOINT REGISTRAR:

15) After recording the submissions of both the sides, the Divisional Joint Registrar has held that the Society is not registered under Section 10 of Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 **(MOFA)** on account of non-cooperation of promoter. He has observed

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

that in the proposal for registration, misleading information was provided to the Deputy Registrar. In the proposal, letter dated 29 October 1985 issued by Sarpanch-Gram Panchayat, Navghar was produced as the development permission. However, as per the Gazette dated 12 June 1985, Navghar Gram Panchayat was already merged into Mira Bhayandar Municipal Corporation. The Divisional Joint Registrar has relied on information provided by Mira Bhayandar Municipal Corporation to Smt. Sujata Ravikant Shinde and to the police about non-issuance of development permission in respect of the land in question. The Divisional Joint Registrar has therefore concluded that what was produced was not a valid development permission. The Divisional Joint Registrar thereafter went into the issue of grant of permission for use of land for non-agricultural purposes **(NA permission)** and has held that in the proposal, it was indicated that the land was 'NA' but the NA permission was not available. The Divisional Joint Registrar has taken into consideration the fact that the NA order of Tahsildar dated 21 January 1981 was produced alongwith the proposal. However, mere payment of tax would not convert unauthorised NA use into authorized one.

16) The Divisional Joint Registrar thereafter went into the issue of number of units stating that only 26 units were indicated in the proposal when in fact in the Suit, number of units were indicated as 72. In Writ Petition No. 1951 of 1983, the number of units were indicated as 41. He therefore concluded that misleading information was provided about the total number of units. The Divisional Joint Registrar also went into the aspect of overwriting/corrections in the documents. He has

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

observed that in several documents, the name of the village, as well as survey numbers were corrected by putting whitener. He has taken note of registration of Regular Criminal Case No. 440 of 2016 in which chargesheet has been filed against some of the Petitioners. The Divisional Joint Registrar thereafter took into consideration the contention of Respondent No.1 that he had executed only 48 agreements for sale of only the plinths. He has further held that Petitioners thereafter carried out unauthorised construction on those plinths, against which action is taken by the Municipal Corporation which was suppressed at the time of registration. It is further held that misrepresentation about units being authorized was made to the Registrar. He has further held that while submitting the proposal for sanctioning the layout plan, certificate of architect, permission for use, Z-form, 7/12 extract, ULC order, NA order, development agreement and list of witnesses were not appended to the proposal and that therefore, there was no compliance with the requirements for registration. The Divisional Joint Registrar thereafter took into consideration the factum of rejection of application for deemed conveyance by the Competent Authority by order dated 4 February 2021. He has also gone into the reasons for rejection of application for deemed conveyance.

17) This is how the Divisional Joint Registrar has arrived at a conclusion that registration of the Society is made on the basis of misrepresentation. He has further held that as per the letters of Mira-Bhayandar Municipal Corporation dated 21 August 2014 and 31 August 2015, the development permission was not granted in respect of the land and that Navghar Gram Panchayat did not have the authority to issue the

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

development permission. That Petitioners suppressed the information about action being taken against unauthorised construction. He has concluded that providing incomplete information, submission of forged/false/incomplete documents and suppression of vital information is included within the ambit of the term 'misrepresentation'. This is how the Divisional Joint Registrar has concluded that registration of the Society is based on misrepresentation. On these broad reasons, the Divisional Joint Registrar ordered de-registration of the Society.

ALLEGATION OF SUBMISSION OF FORGED DOCUMENTS FOR SEEKING REGISTRATION OF SOCIETY:

18) In the present case, the allegation of misrepresentation within the meaning of Section 21A of the MCS Act was raised essentially by contending that documents relating to some other property were submitted with the proposal to demonstrate construction permission. Mr. Shah has mainly laid stress on the fact that the promoters of the Society had submitted documents pertaining to land bearing Survey No. 365 of Village-Navghar for securing registration of society in respect of plot situated at Village-Ghodbunder . Mr. Shah has invited my attention to a document being the certificate issued by Gram Panchayat-Navghar about completion of construction by M/s. Hatkesh Construction Company at Survey Nos. 94,95 and 96. He has contended that said Survey Nos. 94,95 and 96 are inserted by putting white ink when in fact the said document pertains to land at Survey No. 365 of Village-Navghar. The allegation against the Petitioner is that the documents issued by Navghar Gram Panchayat are sought to be relied upon to justify legality

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

of construction of the land situated within the limits of Ghodbunder Gram Panchayat. It appears that the date on which the said certificates were issued (29 October 1985), Navghar Gram Panchayat was not in existence as the area was already brought under the jurisdiction of Mira Bhayandar Municipal Corporation.

19) It is difficult to comprehend the exact objective behind submitting documents of Navghar Gram Panchayat with the registration proposal. There is another document on record in the form of certificate issued by Ghodbunder Gram Panchayat to suggest grant of NOC for some construction on the concerned land. The said document is dated 30 May 1975 and the same is in respect of a construction to be carried out at Survey Nos. 95 and 96 at Village Ghodbunder. It is difficult to record a definitive conclusion as to whether the said NOC issued by Ghodbunder Grampanchayat is in respect of the construction of all industrial units or not. Be that as it may. I proceed on an assumption that there is no valid permission granted by any planning authority for carrying out construction at the site. However, in the present case if there is absence of construction permission, the same is clearly attributable to Respondent No.1. Why Respondent No.1 proceeded to sell the units for which there was no construction permission is for Respondent No.1 to explain. It is sought to be contended on behalf of Respondent No.1 that he did not construct the units and that he had constructed only plinths in respect of the said units. However, even for construction of the plinths, some permission of planning authority was necessary, which he himself admits was not obtained. Thus, the case involves a situation where

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

Respondent No.1 is attempting to take benefit of his own wrong. This is dealt with in greater details in the latter part of the judgment.

20) Petitioners have sought to distance themselves from the documents relating to construction permission. They actually question appearance of those documents on record of the Registrar by contending that the Society had never produced the same. My attention is invited to the reply filed by the Society before the Divisional Joint Registrar in which it is stated as under:

> With regard to the Applicant's contention in relation to the purported fraudulent document i.e. completion certificate dated 29th October, 1985 (produced at page 94 of the Compilation of documents) allegedly issued by the Gram Panchayat, Bhayander in favour of Hatkesh Construction being submitted to the Respondent No.24 is concerned, **the Respondents submit that to the best of their knowledge the Respondent No.1 Society did not submit the said document to the Respondent No.24 for seeking registration of Respondent No.1 Society and Respondents fails to understand as to how and why the said document is being produced by the Applicant** to allegedly raise baseless allegation against the Respondents of allegedly committing fraud whilst obtaining registration. Respondents most humbly submit that said document has no nexus whatsoever with the land on which galas of Respondent No.1 Society. is being constructed and the Respondents have every reason to believe that with malafide and ulterior motives the Applicant is resting his case on said document which is baseless. **In any event, Respondents humbly submits that said document is not the key document based on which the registration is being granted in favour of Respondent No.1 Society and the same is not a requirement for submission of a proposal for registration of a Cooperative Society.** Hence by no stretch of imagination the said document cannot be regarded as the basis to consider cancellation of registration of Respondent No.1 Society and there is no question of playing any fraud or misrepresentation whilst obtaining registration.
>
> *(emphasis added)*

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

21) Petitioners thus took a stand before the Divisional Joint Registrar about non-submission of concerned documents relating to land bearing Survey No. 365 of Village-Bhayandar. On the other hand, Mr. Shah has submitted that the concerned documents are procured through certified copies of the proceedings before the Deputy Registrar. It is not necessary to delve deeper into this controversy. Suffice it to note that the defence was also raised by the Petitioners is that the said documents were not the key documents needed for registration of the society.

BACKGROUND OF SUBMISSION OF REGISTRATION PROPOSAL:

22) No doubt, there appears to be some discrepancy in some of the documents which appear on record of the Deputy Registrar along with the registration proposal. However, the background in which the registration proposal was submitted also needs to be appreciated. In the present case, Respondent No.1 has constructed either partly or fully many of the industrial units and he has sold the same to the purchasers by executing registered Agreements. One such Agreement is placed on record (*which was also on record before the lower authorities*). By the registered Agreement executed on 4 July 1981, M/s. Hatkesh Builders (*proprietary concern of Respondent No.1*) sold industrial Unit E5 to M/s. Universal Packaging. Copy of the Agreement placed on record is slightly illegible, but Recital No.3 of the said agreement is copied below:

> 3. The Builders have formulated a scheme for erecting structures consisting of several Units on the said land, **in accordance with approved and sanctioned plans**, to be used for Industrial purposes and the Builders have decided to sell the several units consisting of several Buildings and/or the Gala or Galas in such Unit or Units, in such

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

> structures, on what is known as "OWNERSHIP BASIS" **with a view that ultimately the Purchasers of the Building or Unit's in such Unit or Units in structures in Co-operation with one another. Co-operative Society with such rules any bye-laws as are usually adopted or incorporate a Private Limited Company, with usual memorandum sad articles of Association.**
>
> *(emphasis added)*

23) Further, Clause 23 of the Agreement again provided for formation of a co-operative society and the same is as under :

> On the Private Limited Company or Co-operative Society as the case may be being incorporated or formed the rights of the Purchaser as the Purchaser of the said Building No.-- Unit No. E/5 and/or Gala/s No ___ will be recognised and regulated by the provisions of the said Private Limited Company of the Co-operative Society and the Rules and Regulations framed by them as the case may be.

24) Thus, while selling the units, Respondent No.1 had not only made representation that the construction was being put up as per sanctioned plans but had also expressly promised formation of co-operative society/company in respect of units sold by him.

25) Respondent No.1 represented to the unit purchasers as under :

> (i) That he is the owner of the land bearing Survey No.94 to 97 of Village-Ghodbunder, Taluka-District-Thane.
>
> (ii) That he had formulated a scheme for erecting structures consisting of several industrial units.
>
> (iii) That plans for construction of units were sanctioned by the Planning Authority (*he possibly relied on NOC issued by Ghodbunder Gram Panchayat on 30 May 1975*).

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

(iv) That though proper NA permission was not secured, NA assessment was paid from time to time in pursuance of orders dated 12 February 1979 and 21 January 1981.

(v) That purchasers can form a co-operative society in respect of the industrial units.

26) With above representations, Respondent No.1 went on constructing and selling the industrial units. He possibly did not obtain proper development permission from the Planning Authority and relied upon mere NOC granted by Gram Panchayat- Ghodbunder. He did not bother to get the land converted to non-agricultural use by following prescribed procedure. Respondent No.1 had no objection for formation of society by unit purchasers.

27) Moreover Respondent No.1, did not fulfill the promised obligation of formation of co-operative society for 20 long years. The unit purchasers therefore decided to come together for formation of the society.

PLEADINGS IN DE-REGISTRATION APPLICATION:

28) Respondent No. 1, who now claims that the industrial units are unauthorisedly constructed, conveniently avoided to make any disclosure about construction of those units in his de-registration application. The application for de-registration was cleverly drafted without disclosing the manner in which the industrial units were

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

constructed. It would be apposite to reproduce paras-2.2 to 2.7 of the de-registration application which reads thus:

२. २. सन १९७९ पासून सदर जमिन मिळकतीच्या पैकी सर्वे क. ९५ च्या एकूण क्षेत्रा पैकी ४०४५. ०० चौ. मीटर क्षेत्राचा औद्योगिक प्रायोजनाकरीता अनधिकृतपणे अकृषिक वापर करण्यात येत आहे. सन १९७९ पर्यंत सदर मिळतीत एकूण ७ गाळे बांधण्यात आले होते.

२. ३. मा अप्पर तहसिलदार (बिनशेती) ठाणे यांचे दिनांक १२. ०२. १९७९ च्या आदेश कः NAA/ Village Ghodbunder/ SR/ 405A अन्वये बिनशेती परवानगी न घेता अनधिकृत शेडचे बांधकाम करून सदर मिळकतीचा अकृषिक वापर केल्याकारणे अकृषिक आकारणी व दंड आकारण्यात आले आहे. तसेच सदर हू आदेशात हे नमुद करण्यात आलेले आहे की, अकृषिक आकारणी व दंडाच्या रक्कमेचा भरणा केले असता त्याचा अर्थ अनधिकृत शेडचे बांधकाम अधिकृत होणार नाही.

२. ४. सन १९७९- ८० पासून सदर जमिन मिळकतीच्या पैकी सर्वे क. ९४, ९५, ९६ व ९७ हिस्सा ३ च्या एकूण क्षेत्रा पैकी ४६, ९४३. ०० चौ. मीटर क्षेत्राचा औद्योगिक प्रायजनाकरीता अनधिकृतपणे अकृषिक वापर करण्यात येत आहे. सन १९८१ पर्यंत सदर मिळतीत एकूण ४१ पत्राशेडचे गाळे बांधण्यात आले होते.

२. ५. मा. अप्पर तहसिलदार (बिनशेती) ठाणे यांचे दिनांक २१. ०१. १९८१ च्या आदेश क. NAA/ Village Ghodbunder/ SR/ 7 अन्वये बिनशेती परवानगी न घेता अनधिकृतपणे शेडचे बांधकाम करून सदर मिळकतीचा अकृषिक वापर केल्याकारणे अकृषिक आकारणी व दंड महाराष्ट्र जमिन महसूल अधिनियम चे कलम ४५ अन्वये आकारण्यात आले आहे. तसेच सदर हू आदेशात हे नमुद करण्यात आलेले आहे की, अकृषिक आकारणी व दंडाच्या रक्कमेचा भरणा केले असता त्याचा अर्थ अनधिकृत शेडचे बांधकाम अधिकृत होणार नाही.

२. ६. सन १९७९- ८० पासून सदर जमिन मिळकतीच्या पैकी सर्वे क. ९४, ९५, ९६ प ९७ हिस्सा ३ च्या एकूण ५०, ९९०. ०० चौ. मीटर क्षेत्राचा. औद्योगिक प्रायजनाकरीता अनधिकृतपणे अकृषिक वापर करण्यात येत आहे. सन १९८१ पर्यंत सदर मिळतीत एकूण ४८ पत्राशेड़चे गाळे बांधण्यात आले होते. सदर जमिनीवर बांधण्यात आलेल्या ब्रौद्योगिक गाळयांच्या समुहास "हटकेश उद्योग नगर" असे नामकरण करण्यात आलेले आहे.

(सोबत मा. अप्पर तहसिलदार (बिनशेती) ठाणे यांचे दिनांक २१. ०१. १९८१ च्या आदेश क. NAA/ Village Ghodbunder/ SR/ 7 ची माहितीच्या अधिकाराअन्वये दिनांक

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

०९. ०४. २०१५ रोजी प्राप्त प्रत जोडत आहे. त्यास निशाणी " अ" देण्यात येत आहे.) पान क्र. ३६ ते ३७.

२. ७. सन १९७९- ८० ते अद्यापपर्यंत सदर जमिन मिळकतीवर म्हणजेच हटकेश उद्योग नगर मध्ये ७२ पेक्षा अधिक गाळयांचे अनधिकृतपणे बांधकाम करण्यात आलेले आहे.

29) Thus, though, Respondent No.1 himself floated the scheme of construction of industrial units and sold them to various purchasers, he made vague statements in the de-registration application that land admeasuring 4045.00 square meters was being illegally used for industrial purposes. While making this statement, Respondent No.1 did not disclose that such unauthorised industrial use was attributable solely to him. He has put the land to industrial use by construction of industrial galas/units. The averments in the de-registration application thus paint a picture as if someone else started making unauthorised industrial use of the land. In para 2.5 of de-registration application, Respondent No.1 pleaded that fine was levied for construction of sheds and for unauthorised non-agricultural use under Section 45 of Maharashtra Land Revenue Code, 1966. He further averred that such levy was paid. Respondent No.1 must have paid such levy. However with a view to escape the consequences of payment of such levy, he further averred that payment of levy did not convert unauthorized into authorized one. If the construction and NA permission were invalid, it was Respondent No.1 who was solely responsible for such acts.

30) Respondent No. 1 also cleverly avoided to plead details of construction of number of Units. In para-2.6 of de-registration application, Respondent No.1 admitted that by 1981, 48 units/tin sheds

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

were constructed on the concerned land and the complex of those industrial units was named as Hatkesh Udyog Nagar. All these acts are done by Respondent No.1 himself. Finally, he admitted in para 2.7 of his application that, by the time of filing of de-registration application, more than 72 unauthorised industrial units had been constructed. However, Respondent No.1 was careful in not admitting in his application that he himself has constructed most of those units. There is no positive statement in the application that either all or any of the units were constructed either by the Petitioners or by any person other than Respondent No.1. Since there is Agreement for Sale on record containing clear covenants for setting up industrial complex on the concerned land by construction of various units, it will have to be necessarily presumed that the units are constructed by the Respondent No.1 himself.

31) Though it is not pleaded in the Application, the Divisional Joint Registrar has noted the contention of Respondent No. 1 that he had executed only 48 agreements for sale of only the plinths. However, there is no averment to that effect in the application for de-registration. On the contrary the application suffered from gross suppression about Respondent No.1 constructing the units. In any case there is admission on the part of the Respondent No. 1 that he himself put up part construction of 48 units.

32) While Respondent No.1 repeatedly brands the units as unauthorised construction (*ignoring that he himself has constructed them*), he placed on record before the Divisional Joint Registrar a No Objection Certificate issued by the Gram Panchayat, Ghodbunder for carrying out

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

construction on land bearing Survey Nos. 95 and 96 admeasuring 29263 sq.mts. Respondent No. 1 also placed on record order dated 21 January 1981 passed by the Additional Tahsildar-Thane by which occupiers and holders were directed to pay non-agricultural assessment in respect of use of land bearing Survey Nos.94 to 97 of Village-Ghodbunder, Taluka and District-Thane. Respondent No.1, who failed to secure proper NA permission and constructed industrial units and sold them for profits, now conveniently raises a plea that mere payment of NA assessment does not mean that unauthorised construction got converted into a lawful construction. This Court deprecates this act on the part of Respondent No.1.

EVENTS LEADING TO FILING OF DE-REGISTRATION APPLICATION:

33) There is total silence in the de-registration application filed by Respondent No.1 in respect of events which occurred between 1983 to 2013. This means that the relationship between the unit purchasers and Respondent No.1 were cordial upto the year 2013. Something happened in the year 2013 which disturbed these cordial relations. It appears that filing of Suit by the Society against Respondent No.1 in the year 2013 gave rise to discord in the relationship between the parties. Perusal of R.C. Suit No. 582 of 2013 filed by Respondent No.1-Society would indicate that one Mr. Sachin Velji Shah, claiming to be running leather goods industry, was claiming certain rights in respect of the road which was to be used by all the 72 gala owners of the Society. The Society had installed 2 gates for their safety purpose and the gates were in existence for 20 years. Adjacent to the Society land, there is a land known as

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

Garden View land. There were disputes between Sachin Velji Shah (Defendant No.1) and one Juber Patel relating to the said garden view land. It was Plaintiff's case that Defendants in the suit had started obstructing its members to enter from gate no.1 and that they had closed society's private internal road by fencing with iron sheets. Respondent No.1 was Defendant No.3 in the said suit. Accordingly, injunction was sought against the Defendants from restraining Plaintiffs' right of way to pass through main gate no.1.

KNOWLEDGE OF RESPONDENT NO.1 ABOUT REGISTRATION OF SOCIETY:

34) Respondent No.1 claimed before the Registrar that he acquired knowledge about registration of the Society after receipt of summons in Regular Civil Suit No. 582 of 2013 sometime in the year December 2013/January 2014. This claim however appears to be fallacious in view of the fact that the Society had written to Respondent No.1 on 12 March 2010 about formation of the Society. The letter was apparently issued in pursuance of meeting held between the members of the Society and Respondent No.1, in which Respondent No.1 had requested for list of members of the society. Accordingly, by letter dated 12 March 2010, Society had handed over list of members and copy of registration certificate to Respondent No.1. The letter dated 12 March 2010 reads thus:

To,
M/s. Hatkesh Builders
Mr. Paresh S. Vohra
Hatkesh Industries
Mira Road (E)

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

Thane 401104

Dear Sir,

With reference of the meeting held at F/2 Hatkesh between members and Mr. Paresh S. Vohra. As requested by you we are enclosing the list of members of the Hatkesh Udyog Nagar Industrial Premises Co-op HSL, and also a Xerox copy of Registration Certificate of above Society.

Please acknowledge and oblige
Enc: 1)Xerox copy of present members.
2) Members List (Present)

Hatkesh Udyog Nagar

35) There appears to be acknowledgment by Respondent No.1 on the said letter dated 12 March 2010. In none of the pleadings Respondent No. 1 denied receipt of letter dated 12 March 2010. Thus, it appears that Respondent No.1 was well aware about formation and registration of the Society on 12 March 2010 and had no grouse about the same. It is only after receipt of suit summons that Respondent No.1 started making inquiries into registration of the Society. Respondent No.1 himself did not make any inquiries. The pleadings in the de-registration application would indicate that Application for information was preferred by Mr. Tufel Rahi, who appears to be the constituted attorney of Respondent No.1. After seeking information under the Right to Information Act, 2005, Respondent No.1 chanced upon some discrepancies in the documents filed at the time of registration of the society. Respondent No.1 decided to take disadvantage of those discrepancies and submitted application dated 18 May 2015 to Lokayukta for cancellation of registration of the Society. Copy of letter was also addressed to the Divisional Joint Registrar, who advised Respondent

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

No.1 to file proceedings under Section 21A of the MCS Act. This is how Respondent No.1 filed application seeking de-registration of the Society under Section 21A of the MCS Act.

36) From the above discussion, it is clear that Respondent No.1 is responsible for illegalities/irregularities, if any, in construction of the units. He has misrepresented to the purchasers that units have been constructed after securing permission from the Planning Authority. He has acted in breach of his promise regarding the formation of society by unit purchasers. There is contractual breach as well as statutory breach on the part of Respondent No.1. Despite acquisition of knowledge about registration of the Society in the year 2010, he did not take any steps for filing appeal against registration. It is only after the Society filed a suit in the year 2013 that Respondent No.1 started making inquiries about the manner of registration of the Society and filed proceedings for its de-registration.

OBJECTIVE BEHIND SEEKING DE-REGISTRATION:

37) It appears that Respondent No.1 owns large tract of land and only part of the same is being used for construction of industrial units. In reply file before the Divisional Joint Register, specific allegations were raised against Respondent No.1 about various unauthorised constructions put up by him. The Society specifically raised the contention that filing of de-registration application was a counterblast to Society's action of filing the suit. In this regard, pleadings

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

in para 4J of the reply filed before the Divisional Joint Registrar are relevant, which read as under:

> j. The Respondents further submit that the present Application is nothing but an counterblast proceedings malafide filed by the Applicantas an arm twisting method to harass and cause mental stress/strain to the members of Respondent No.1 Society, inter-alia, since the Applicant has illegally constructed certain structures and created encroachment affecting the premises of the Respondent No.1 Society and thereby blocking the right of way of the members of the Respondent No.1 Society passing from Society's main Iron gate No.1, and in view thereof inter-alia to restrain Applicant from carrying such illegal activities Respondent No.1 Society has filed a suit for permanent injunction before the Civil Judge, Thane and also filed criminal proceedings with local police station, which are pending adjudication. Hereto annexed and marked as Annexure A are the photos depicting such encroachment by the Applicant.

38) Considering the above position, the question that falls for consideration is whether this Court would come to the aid of Respondent No.1 who himself has committed illegalities and wants to take disadvantage of his own illegalities. Having indulged in massive unauthorised construction, he now seeks to have the registration of the society cancelled by citing his own illegalities. The units are sold by Respondent No.1 from 1979 onwards and despite passage of 28 long years, he has done precious little for formation of society. Far from forming a co-operative society, Respondent No.1 was indulging in activities of restraining the society's members from entering into the premises and there are allegations of him indulging in further unauthorised constructions. All this position is not appreciated by the Divisional Joint Registrar and the Hon'ble Minister has mechanically decided the proceedings by repeatedly holding that construction of industrial units is unauthorised conveniently ignoring the position that

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

the objector himself is responsible for such unauthorised construction. The Divisional Joint Registrar ought to have rejected the application of Respondent No.1 at the threshold by appreciating the position that he was attempting to take benefit of his own wrong. Instead of doing so, the Divisional Joint Registrar has concentrated only on discrepancies in the documents submitted at the time of registration of the society. Undoubtedly, there are discrepancies in the documents so submitted at the time of registration of the society. However, considering the conduct of Respondent No.1, he was not the person at whose instance inquiry could have been initiated into those discrepancies. In any case, extraordinary power of de-registration of already formed society ought not to have been resorted to for aiding the devious plans of Respondent No.1. In my view, therefore the Divisional Joint Registrar has exercised the jurisdiction vested under Section 21A of the MCS Act with material irregularity. His order ought to have been set aside by the Hon'ble Minister.

ILLEGALITY IN CONSTRUCTION WHETHER A GROUND FOR DE-REGISTRATION :

39) The Divisional Joint Registrar and the Hon'ble Minister are mainly swayed by the fact that the construction of the Units is not authorized and that action is taken against unauthorised construction by Mira Bhayandar Municipal Corporation from time to time. The issue for consideration is whether mere illegality in construction can be a reason for non-registration of the Society. The issue is no more *res-integra* and is covered by judgment of this Court in ***Sukhsagar Co-operative Housing***

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

Society Limited (supra). The issue before this Court was whether the Registrar can go into the issue of legality of construction while deciding the application for registration of the society under Section 9 of the MCS Act. It appears that in the case before this Court, the Municipal Corporation had refused to grant Occupancy Certificate on account of failure of the developer to complete the statutory obligations. The registration of the society was refused on that count. This Court held in para-15 of the judgment as under:

> 15. On behalf of the fourth respondent, it was sought to be urged that the Municipal Corporation has not issued an occupation certificate in respect of Wing 'B-1' and Wing 'B-2' because the tenements which have been provided by the fourth respondent to re house the existing occupiers do not admeasure 225 sq.ft. Hence, it was sought to be urged that unless an occupation certificate is received, it is not lawfully open to the members of the petitioner-Society to occupy their flats in violation of the provisions of Section 353-A of the Bombay Municipal Corporation Act, 1888. It was sought to be urged that under Section 9 of the Maharashtra Co-operative Societies Act, 1960, the Registrar is entitled to satisfy himself that a proposed Society has complied with any other law for the time being in force. Moreover, it was sought to be urged that the expression, "who reside in the area of operation of the society" in Section 6 must necessarily mean the requirement of lawful residence and since the members of the society are not entitled to lawfully reside in the flats in dispute, registration could not have been granted. The submission has to be only stated to be rejected. The expression "who reside in the area of operation of the society" indicates that the persons who join in the formation of the Society must reside in that local area wherein the society will operate. The residence which has been adverted to therein does not refer to the proposed residence, in the case of a Co-operative Housing Society, in the flats which would be allotted to the members of the society upon its formation. Similarly, the satisfaction of the Registrar in Section 9 of the Act that a proposed society has complied with the provisions of any other law far the time being in force, obviously refers to a law for the time being in force in relation to the registration of the Society. It is, in my view, no part of the Registrar's function to decide upon whether in respect of the construction carried out by the builder or developer the members of the Society are entitled to an occupation certificate under Municipal Law. The question as to whether the construction is in accordance with

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

> building regulations and if so, whether an occupation or completion certificate should be granted, does not lie within the province of the Registrar. These are matters which are to be considered by the Planning Authority, in the present case, by the Bombay Municipal Corporation. The registration of a Society does not carry with it, a recognition as regards the lawfulness of the construction in which members of the Society claim an entitlement to occupy residential premises. The registration of the society does not impinge upon the statutory powers of the Municipal Corporation, to determine whether an occupation certificate should be granted. The Municipal Corporation will decide that issue in accordance with the Building Regulations and Bye-laws. Insofar as the question of registration is concerned, the revisional authority was in error in setting aside the certificate of registration on the ground that the Municipal Corporation has not granted an occupation certificate. Undoubtedly, if any person has occupied a residential flat in violation of the provisions of Section 353-A of the Bombay Municipal Corporation Act, 1888, it would be open to the Competent Authority to take such steps as are necessary in accordance with law to deal with such an infraction. The formation of the society, however, cannot be thwarted on that ground. Indeed, the formation and registration of a Co-operative Society of flat purchasers is essential, for, it is the flat purchasers who are truly interested in ensuring due compliance by the builder of his obligations under the scheme sanctioned under Regulation 33(7). The Municipal Corporation as in the present case, may decline to grant an occupation certificate if the developer has not complied with his obligations under the scheme. However, the formation of a Co-operative Society will in fact, enure to the benefit of those beneficially entitled to rights under the scheme because it would enable the flat purchasers to take recourse to the remedies open in law to ensure due compliance by the developer of his obligations under the scheme. Therefore, as a matter of principle, it is impossible to accept the correctness of the submission that has been urged on behalf of the fourth respondent.

40) Thus, mere irregularity in construction of the building is not a factor relevant for not granting registration certificate to a society. Thus, it was not really necessary for the promoters of the society to prove before the Deputy Registrar that construction of the units was in accordance with the development permission. The objective behind forming a co-operative society is to merely ensure collective management of the property. Since individual unit owners find it difficult

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

to collectively manage common facilities, as well as to look after safety and security of the property, an organization of such unit purchasers in the form of a cooperative society, company or organization is formed. Therefore, merely because a society is registered, the same does not give a flavour of legality to the construction which is otherwise illegal. The Planning Authority is not precluded from taking action against such illegal construction merely on account of formation of society. If the entire construction is demolished by the Planning Authority, the society can still reconstruct the structure by applying for permission from the Planning Authority. In that sense, formation and registration of collective body like a society comes to the rescue of unit owners in the event the entire structure is required to be demolished by the Planning Authority. In my view therefore mere failure on the part of the promoters of the Society to convince the Registrar about legality of construction cannot be a ground for non-registration of a co-operative society.

41) In view of the above discussion, it is clear that the information for justifying legality of construction was not even necessary for registration of the society. It therefore cannot be contended that any mis-statement made by the Petitioners at the time of registration in this regard goes to the root of the matter and that if the statements and documents relating to legality of construction were not submitted, the Registrar would never have registered the society. In my view, therefore any shortcoming in proving legality of construction subsequently discovered cannot be a ground for de-registration of society under Section 21A of the MCS Act.

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

42) The issue with regard to de-registration of a society under Section 21A on account of illegality or irregularity of construction is again no more *res-integra* and is covered by the judgment of this Court in ***Airoli Neha Apartments Co-operative Housing Society Limited*** (supra) in which this Court has held in para-10 and 11 as under:

> 10. Learned counsel for the respondents are not in a position to point out any provision under the MCS Act which would confer jurisdiction on the Registrar, who would be authorized to register or de-registrar co-operative Society or the higher authorities exercising the appellate and revisionary powers, that merely because there is some illegality or any irregularity in the construction of the building of the Society, the Society could be de-registered. If the reasons as set out in the impugned order are accepted to be the correct position in law it would not only run contrary to the provisions of Section 8 to 10 providing for registration of the co-operative Society but also create a chaotic situation. Such position also becomes clear from the provisions of Section 21A of the Maharashtra Cooperative Societies Act, 1960, which provides for de-registration of Society. It would be appropriate to note the said provisions, which reads thus:
>
> 21A. De-registration of societies
>
> XXX
>
> 11. Thus, it is clear that an issue and/or a subject matter which is completely alien to the MCS Act and not relevant to the registration and de-registration of a Society cannot be a subject matter of consideration to de-register the petitioner Society. This is exactly what Section 21A would also depict. There is no manner of doubt that the impugned order passed by the Hon'ble Minister is based on reasons which are extraneous to the provisions of Maharashtra Cooperative Societies Act as discussed above.

43) Thus, as held in ***Airoli Neha Apartments Co-operative Housing Society Limited***, illegality or irregularity in construction of building of the society is not relevant for the registration and therefore, the same can also not be relevant for de-registration of the society. In my

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

view, therefore, the Divisional Joint Registrar has taken into consideration extraneous factor of legality of construction while exercising the power under Section 21A of the MCS Act.

44) The ground of rejection of application for deemed conveyance cited by the Divisional Joint Registrar, is totally irrelevant for exercising jurisdiction under Section 21A of the MCS Act. The misrepresentation referred to in Section 21A must be in the information given to the Registrar at the time of making an application for registration of the society. Therefore, subsequent rejection of application for deemed conveyance on 4 February 2021 by the Competent Authority is an irrelevant factor for deciding the Application for de-registration.

INCORRECT EXERCISE OF APPELLATE POWERS:

45) The Hon'ble Minister has not correctly exercised the appellate powers. Perusal of the order passed by the Hon'ble Minister would again indicate that he has mainly taken into consideration the ground of absence of development permission for carrying out construction for upholding the order of de-registration. He has also taken into consideration the factor of mismatch in the number of units and the one indicated at the time of registration of the society. He has also taken into consideration the factor of absence of NA permission. He has recorded the finding that Respondent No.1 did not receive notice of registration of the society and that registration was in violation of provisions of Section 10 of MOFA. He has also taken into consideration the factum of application of whitener on some of the documents

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

submitted at the time of seeking registration of the society. Lastly, the Hon'ble Minister has considered rejection of application for deemed conveyance for upholding the order passed by the Divisional Joint Registrar.

46) Thus, the order passed by the Hon’ble Minister does not really conduct an inquiry into the allegation of misrepresentation by the Applicants at the time of registration of the society. Violation of provisions of Section 10 of MOFA, non-receipt of notice by Respondent No.1 in proceedings for registration, rejection of application for deemed conveyance, etc. cannot be reasons for recording findings of misrepresentation within the meaning of Section 21A of the MCS Act. The reasons of absence of development permission, absence of any permission, mismatch in number of units and application of whitener on some of the documents, may be relevant for setting aside of registration order by exercise of appellate powers under Section 152 of the MCS Act. The same, however, does not *ipso facto* lead to the conclusion of misrepresentation within the meaning of Section 21A of the MCS Act.

CONSEQUENCE OF DE-REGISTRATION:

47) It must also be appreciated that de-registering the society at this stage would throw the premises into a total chaos. A cooperative society is formed by the unit purchasers ultimately for collective management of the premises. The Society has been registered in the year 2008 and by now period of 18 long years has elapsed. If at this stage, the Society is de-registered, collective management of the entire premises

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

would be adversely affected. On the other hand, mere registration of the society does not *ipso-facto* affect any of the rights of Respondent No.1. Having sold the units to the purchasers, it is incomprehensible as to why the promoter/Respondent No.1 is opposing the collective management of those units by the owners. Respondent No.1 is attempting to take benefit of his own wrong in not securing necessary permissions for construction of the units and wants to have the collective body formed by unit purchasers disbanded for achieving the obvious oblique motive of claiming rights in the land from which he has already profiteered. If he believes that any unit holder has unauthorizedly encroached upon the land, he can always file a suit for eviction against such unit holder. Mere formation of the society does not affect his right to seek declaration of title in his name. Thus, if balance of convenience is appreciated, the unit owners would be adversely affected in the matter of collective management of premises upon de-registration of the society as compared to virtually no loss being suffered by Respondent No.1 by mere formation of the Society. He is opposing formation of the society possibly on account of an apprehension that the society would ultimately secure conveyance in respect of the land. At this juncture this Court is not concerned with the issue of deemed conveyance and the same can be adjudicated in appropriate proceedings. Suffice it to observe that there is no warrant for ordering de-registration of society formed 18 years ago. In my view, therefore it would be appropriate to set aside the order of de-registration passed by the Divisional Joint Registrar which is confirmed by the Hon'ble Minister.

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

CONCLUSIONS:

48) In the peculiar facts and circumstances of the case, where Respondent No.1 is seeking benefit of his own wrong, de-registration of already formed society ought not to have been ordered. In ordinary circumstances, upon noticing the discrepancies in the documents submitted at the time of registration of the society, this Court would have been loath in interfering in the order of de-registration. However, once this Court is convinced that de-registration of the society would enure to the benefit of Respondent No.1, who himself is responsible for not securing necessary permissions, it would not be appropriate to uphold the order of de-registration. This is not to suggest that societies and their promoters can get away with the consequences of submitting documents with discrepancies. However, in the peculiar facts and circumstances of the case, the discrepancies in the documents can be ignored only to ensure that Respondent No.1 is not permitted to take benefit of his own wrong. If a developer constructs a building without securing permissions, sell units therein and after a society is formed by the unit purchasers, he applies for de-registration on the ground that the building constructed by him is illegal. Can de-registration of a society can be undertaken in such case at the instance of errant developer? Answer to my mind, appears to be in the negative. This exactly has happened in the present case. Therefore, in the peculiar facts and circumstances of the case, the order of de-registration of the society deserves to be set aside.

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07

ORDER:

49) The conspectus of the above discussion is that the impugned orders passed by the Divisional Joint Registrar and the Hon'ble Minister are indefensible and liable to be set aside. The petition accordingly succeeds and I proceed to pass the following order:

(i) The order dated 15 July 2024 passed by the Divisional Joint Registrar, as well as order dated 23 June 2025 passed by the Hon'ble Minister are set aside.

(ii) De-registration Application filed by Respondent No. 1 is dismissed.

50) The writ petition is **allowed** in the above terms. There shall be no order as to costs.

[SANDEEP V. MARNE , J.]

NEETA SHAILESH SAWANT
Digitally signed by NEETA SHAILESH SAWANT
Date: 2026.08.05 19:47:47 +0530

Uploaded on - 05/08/2026 Downloaded on - 06/08/2026 07:41:07