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अनुक्रमणिका / INDEX

❖ पाणी म्हणजे राष्ट्रीय जलसंपत्ती ! राष्ट्रीय जलसंपत्तीचा विनियोग जबाबदारीने व्हावा ! - संपादकीय	पान - ०६-०७
❖ सौर ऊर्जा ही काळाची गरज - अध्यक्षांचे मनोगत	पान - ०९-११
❖ Clarification on GST Applicability for RWAs and Apartment Owners	पान - १३
❖ 2025(2) ALL MR 199 March, 2025	पान - १५-२२
❖ Bombay High Court ; Kiran K Sharma And Another vs Laxmi Estate Co-Operative Housing ... on 25 January, 2024 - (Case Law - 2)	पान - २३-२६
❖ Question & Answer	पान - २७-२८

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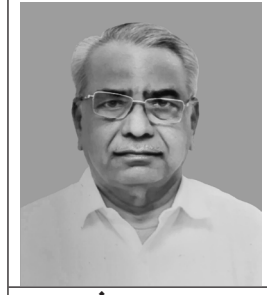
८४१९९८८२७९ / ०२२-३५१०५२११ /
०२२-२२६६००६८ / ०२२-२२६६१०४३

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पाणी म्हणजे राष्ट्रीय जलसंपत्ती ! राष्ट्रीय जलसंपत्तीचा विनियोग जबाबदारीने व्हावा !

कडक उन्हाळा सुरू झाला असून मुंबई शहर व उपनगरात हळुहळु पाण्याची टंचाई भासू लागली आहे. मुंबई प्रमाणेच महाराष्ट्राच्या अनेक जिल्ह्यांमध्ये पाण्याची तीव्र टंचाई जाणवायला लागली आहे. कडक उन्हाळा व पाण्याच्या वाढत्या वापराने तलाव क्षेत्रातील पाण्याची पातळी खाली जात आहे म्हणून नागरिकांनी पाण्याचा अपव्यय न करता पाण्याचा काटकसरीने वापर करणे आवश्यक आहे.



संपादक
वसंतराव एन शिंदे

पाणी ही जीवनासाठी सर्वात महत्वाची गोष्ट आहे. मनुष्य प्राणी आणि वनस्पतींसह प्रत्येक सजीवसृष्टीला जगण्यासाठी पाण्याची गरज असते. पिण्यासाठी, स्वयंपाकासाठी, आंघोळीसाठी, साफसफाईसाठी आणि शेतासाठी आपण पाण्याचा वापर करतो कारखान्यांनाही वेगवेगळी उत्पादने तयार करण्यासाठी पाण्याची गरज असते मात्र दुर्दैवाने पाण्याचा अपव्यय आणि प्रदूषण होत आहे. रसायने आणि कचऱ्यामुळे काही नद्या आणि तलाव अस्वच्छ होत आहेत. अनेक ठिकाणी लोंकाना पुरेसे स्वच्छ पाणी मिळत नाही पाण्याची बचत केली नाही तर भावी पिढ्यांना मोठ्या समस्यांना सामोरे जावे लागेल.

पाणी बचतीसाठी पावले उचलली पाहिजेत रेन वॉटर हार्वेस्टिंगमुळे अतिरिक्त पाणी साठवण्यास मदत होते. पाण्याचे स्रोत स्वच्छ ठेवण्यासाठी आणि प्रदूषण रोखण्यासाठी प्रत्येक स्तरावरच प्रयत्न केले पाहिजे जर आपण आज पाणी वाचवले तर उद्यासाठी पुरेसे पाणी मिळेल पाणी हे जीवन आहे आणि आपण त्यांचे रक्षण केले पाहिजे.

पाण्याची नासाडी होऊ नये व नियमित पाणी गृहनिर्माण सहकारी संस्थेच्या सर्व सभासदांना मिळावे याकरिता पाणी जपून वापरणे गरजेचे आहे. पाणी जपून वापरताना खालील बाबी अवलंबल्यास पाण्याचा अपव्यय टाळता येऊ शकतो.

- पिण्याचे पाणी वापरताना आवश्यक तेवढे पाणी घ्यावे. पाण्याचा पुर्नवापर करा. उदा. भांडी धुण्यासाठी, स्वयंपाक घरातील धान्य धुवून घेण्यासाठी वापरले जाणारे पाणी झाडाना घालावे.
- स्वयंपाक घरातील तसेच बेसींग, बाथरूम येथील नळाला पाणी चालू असताना तो सतत चालू ठेवू नका, नळ बंद ठेवल्यास पाण्याची बचत होवू शकते.
- गळके नळ दुरूस्त करा, गळत्या जलवाहिन्या बंद करा, पाण्याच्या टाक्या वाहुन जाणार नाहीत याची काळजी घ्या.
- वॉशिंग मशिन मधुन जाणारे पाणी जमीन, बाथरूम व वॉशरूम धुण्यासाठी वापरा.
- दुचाकी, चारचाकी व अन्य प्रकारची वाहने धुण्यासाठी पाण्याचा कमीत कमी वापर करावा.
- आंघोळ करताना शॉवर शक्य तो कमी वापरा.

आपल्या जीवनात पाण्याचा अनेक प्रकारे वापर केला जातो. लोकांना पिण्यासाठी, स्वयंपाकासाठी आंघोळीसाठी आणि स्वच्छतेसाठी पाण्याची आवश्यकता असते. पीक घेण्यासाठी शेतकरी पाण्यावर अवलंबून असतात आणि उद्योगांना माल निर्मितीसाठी पाण्याची आवश्यकता असते.

जलविद्युत प्रकल्पांद्वारे वीजनिर्मितीतही पाण्याचा वाटा आहे. माणसांबरोबरच वनस्पती आणि प्राणीही वाढण्यासाठी आणि जगण्यासाठी पाण्यावर अवलंबून असतात.

पाण्यामुळे निसर्गाचा समतोल राखण्यास मदत होत महासागर, नद्या आणि सरोवरे विविध वनस्पती आणि प्राणी जीवनास आधार देतात. पाणीटंचाई ही एक मोठी जागतिक समस्या बनत चालली आहे. अनेक भागात पिण्याच्या शुध्द पाण्याची टंचाई भासत आहे. त्याचबरोबर प्रदुषणामुळे पाणी वापरासाठी असुरक्षित होत आहे. उद्योगधंदे, रसायने आणि कचऱ्यामुळे नद्या आणि तलाव प्रदुषित होत आहेत. याचा परिणाम मानवी आरोग्यावर तर होतोच, शिवाय जलचरांचेही नुकसान होते. त्यामुळे पाणी बचतीसाठी पावले उचलणे गरजेचे आहे. वापरात नसताना नळ बंद करून, गळती दुरूस्त करून आणि पाण्याचा कार्यक्षमतेने वापर करून लोक पाण्याची बचत करू शकतात. रेन वॉटर हार्वेस्टिंगमुळे भविष्यातील वापरासाठी पाणी साठविण्यास मदत होऊ शकते. या मौल्यवान साधनसंपत्तीचे रक्षण करण्यासाठी प्रदुषण कमी करणे आणि पाण्याचे स्रोत स्वच्छ ठेवणे आवश्यक आहे.

अनेक भागात पिण्याच्या शुध्द पाण्याची टंचाई भासत असल्याने बऱ्याचदा अनेक गृहनिर्माण सहकारी संस्थांमध्ये पाण्याचे टँकर मागविले जातात. मात्र सदर पाणी कुठून आले आहे याची शहानिशा/ तपासणी न करता तसेच पाण्याची गुणवत्ता न तपासता पाणी संस्थेच्या टाक्यांमध्ये थेट भरले जाते व तेच पाणी पिण्यासाठी वापरले जाते. त्यामुळे अनेकदा दुषित पाण्यामुळे रोगराई पसरते.

पाण्याची बचत करणे म्हणजे जलस्रोतांचे संरक्षण करणे, पाण्याचा जपून वापर केल्यास भविष्यात पाण्याची समस्या निर्माण होणार नाही. तसेच पर्यावरणाचे संरक्षण होण्यास मदत होईल. पाण्याची बचत केल्यास पाणीपुरवठा व्यवस्थापनावर होणारा खर्च कमी होण्यास मदत होईल.

सहकारी संस्थामध्ये पाण्याचा मोठ्या प्रमाणात वापर केला जातो, पाण्याचा अपव्यय टाळणे, पर्जन्यजल संचयन, पाण्याचा पुर्नवापर करणे, उपलब्ध पाण्याचे वर्षभर नियोजन व गरजेनुसार वाटप करणे यासाठी लोक सहभागातून सहकारी गृहनिर्माण संस्थांनी पुढाकार घेऊन त्याची सुरुवात केली पाहिजे. अन्यथा राज्य टँकर मुक्त करण्याच्या घोषणा कागदावरच राहतील म्हणून जर आजच्या पिढीने अजूनही पाण्याचा अपव्यय किंवा प्रदुषण टाळले नाही तर भावी पिढ्यांना त्रास होईल. पाण्याचा विवेकाने वापर करणे, प्रदुषणापासून संरक्षण करणे ही प्रत्येक व्यक्तीची जबाबदारी आहे. आज पाण्याची बचत केल्यास सर्वांचे चांगले आणि निरोगी भवितव्य सुनिश्चित होईल.

वसंतराव एन शिंदे

संपादक

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सौर ऊर्जा ही काळाची गरज

आपल्याकडे ऊर्जेचा स्रोत हे औष्णिक ऊर्जा, जलविद्युत ऊर्जा प्रकल्प, अणुऊर्जेतून आणि पवन ऊर्जेतून मिळालेल्या ऊर्जेतून वीज निर्मिती होत असते व सदर वीज निर्मिती ही निसर्गातून मिळणाऱ्या नैसर्गिक स्रोतातून उपलब्ध होत असते. मुळात औष्णिक ऊर्जेसाठी कोळशाचा उपयोग केला जातो. जल विद्युत निर्मितीसाठी पाण्याचा उपयोग केला जातो. तसेच अणुऊर्जेसाठी युरेनियम किंवा ड्यूटेरीयम वा ट्रिटियम यासारख्या घटकांचा उपयोग केला जातो. तसेच पवन ऊर्जा



तयार करण्यासाठी ती जरी हवेने तयार होत असली तरी तीचा सुरवातीचा खर्च मोठ्या प्रमाणावर असून मुबलक प्रमाणात जागा लागते. आपल्याकडे वीज निर्मितीसाठी लागणारे नैसर्गिक संसाधने कोळसा, पाणी, युरेनियम यासारखे संसाधने मुळताच कमी प्रमाणात उपलब्ध असल्यामुळे व सदर घटकांन पासून निर्माण होणारी वीज खर्चीक असल्यामुळे व त्याच प्रमाणे सध्याच्या औद्योगिक युगात विजेचा वापर प्रचंड प्रमाणात होत असल्यामुळे साधारण पणे शहरी भागात घरगुती वापरासाठी लागणाऱ्या वीजेचा तुटवडा भविष्यात जाणवू शकतो या सर्व शक्यतेचा विचार करून व पारंपारीक वीजनिर्मितीसाठी लागणाऱ्या घटकांची मर्यादा लक्षात घेऊन सौर उर्जेच्या वापर मोठ्या प्रमाणात करणे गरजेचे आहे, त्यासाठी शासन स्तरावर सौरउर्जेचे धोरण ठरविले आहे.

भारताचे माननीय पंतप्रधान नरेंद्रजी मोदी यांनी दिनांक १३ फेब्रुवारी २०२४ रोजी “पीएम सूर्य घर मुफ्त बिजली योजना” ची घोषणा केली. ही रूफटॉफ सोलार योजना आहे, ज्यामध्ये ७५,००० कोटींहून अधिक गुंतवणुकीच्या या प्रकल्पाचे उद्दिष्ट दरमहा ३०० युनिटपर्यंत मोफत वीज पुरवून १ कोटी घरांना प्रकाश देण्याचे आहे.

पीएम सूर्य घर योजनेअंतर्गत सरकार अनुदान थेट लाभार्थ्यांच्या बँक खात्यात जमा करेल. त्यांना सवलतीच्या दरात बँक कर्जही दिले जाईल, यासाठी एक राष्ट्रीय ऑनलाईन पोर्टल तयार केले जाईल. यामध्ये सर्व प्रकारच्या सुविधा एकत्रित केल्या जातील.

सदर पीएम सूर्य घर मुफ्त बिजली योजनेचा फायदा ज्या गृहनिर्माण संस्थांच्या छतावरती जागा उपलब्ध आहे अशा संस्थांनी या योजनेचा लाभ घेणे अत्यंत गरजेचे आहे नव्हे ती काळाची गरज आहे. मुंबईसारख्या औद्योगिक शहरामध्ये औद्योगिक करणासाठी व घरगुती वापरासाठी प्रचंड प्रमाणात वीजेची आवश्यकता भासत असते व आपण वापरत असलेली पारंपारीक वीजेचे स्रोत बघता व आपल्या गृहनिर्माण सहकारी संस्थेच्या वीजेच्या वापराचे प्रमाण बघता सौर ऊर्जा अतिशय कमी खर्चात उपलब्ध होऊ शकते व शासन स्तरावर प्रति किलो वॅट मिळणाऱ्या सबसीडी बघता प्रत्येक घरासाठी साधारणपणे ३ किलोवॅट पर्यंत (आवश्यकतेप्रमाणे) या योजनेचा लाभ घेता येऊ शकतो.

या योजनेचा लाभ घेण्यासाठी, गृहनिर्माण सहकारी संस्थांसाठी आपल्या कडील सामुहीक सुविधांच्या वापरासाठी या योजनेचा फायदा घेणे आवश्यक आहे. म्हणजे वीजेसाठी येणाऱ्या खर्चाची बचत होईल. पर्यायाने

देखभाल खर्चात देखील कपात डोईल, तसेच गृहनिर्माण सहकारी संस्थांच्या सभासदांनी त्यांच्या सदनिकेसाठी गृहनिर्माण संस्थेच्या इमारतीच्या छतावर जागा उपलब्ध असल्यास छतावर सोलार रूफटॉफ सिस्टम बसवणे शक्य होईल. संस्थांना व त्यांच्या सभासदांना योजनेसाठी अर्ज करणे आवश्यक आहे व त्याच प्रमाणे लागणारे कागदपत्रे जमा करणे आवश्यक आहे. सदर योजनेचा लाभ घेतल्यास शासन स्तरावर सबसीडी दिली जाते व ती खालील प्रमाणे.

सरासरी वीजेचा वापर (युनिट)	योग्य सौरऊर्जा प्रणाली क्षमता	सबसीडी मदत
०-१५०	१-२ किलोवॉट	रु. ३०,००० ते रु. ६०,०००/-
१५०-३००	२-३ किलोवॉट	रु. ६०,००० ते रु. ७८,०००/-
३०० पेक्षा जास्त	३ किलोवॉट पेक्षा जास्त	रु. ७८,०००/-

सदर योजनेतून मिळणारी सबसीडी संस्थेच्या सभासदांच्या खात्यावर जमा होत असते. सदर योजनेचे फायदे बघता सहकारी गृहनिर्माण संस्थांना व त्यांच्या सभासदांना खालील फायदे होऊ शकतात.

१. संस्थेच्या सभासदांना वीजेच्या बिलात साधारणपणे ७० ते ८० टक्के फायदा होऊ शकतो. तसेच संस्थेच्या सभासदांसाठी वापरल्या जाणाऱ्या सामूहिक सुविधांसाठी (उदा. पाण्याचे पंप, लिफ्ट, क्लब हाऊस आणि जिमसाठी एअर कंडिशनिंग, जिना आणि पेरिफेरल लाईटिंग इत्यादी) वापरल्या जाणाऱ्या वीजेच्या बिलात मोठ्या प्रमाणावर कपात होते. त्यामुळे सामूहिक देखभाल खर्चात कपात होऊन त्याचा फायदा सभासदांना होतो.
२. सौर ऊर्जा तयार करण्यासाठी आपल्या पृथ्वीवर मुबलक उर्जा स्रोत उपलब्ध असल्यामुळे मोठ्या प्रमाणावर वापरासाठी वीजेची निर्मिती होऊ शकते.
३. आपल्या दैनंदिन खर्चात वीजेमुळे होणाऱ्या खर्चात बचत डोऊ शकते.
४. सौर ऊर्जा तयार करण्यासाठी जरी संस्थांना / सभासदांना सुरवातीचा खर्च येत असला तरी सदर खर्च सबसीडी वजा जाता खूप अल्प प्रमाणात येतो व नंतर त्याचा फायदा भविष्यात बऱ्याच वर्षा पर्यंत संस्था व सभासदांना होऊ शकतो.
५. सौर ऊर्जेच्या पॅनलचा देखभाल खर्च अल्प प्रमाणात असल्यामुळे त्याचा फायदा सभासदांना होऊ शकतो.
६. सौर ऊर्जा निर्मिती होताना कोणत्याही हानीकारक घटकांचे उत्सर्जन होत नाही. जरी पीव्ही मॉड्यूल आणि इतर घटक उत्खनन आणि प्रक्रिया केलेल्या पदार्थापासून बनलेले असेल आणि त्यामुळे काही प्रमाणात उत्सर्जन निर्माण होते, तरीही सौरऊर्जा ही निःसंशयपणे कार्बन-स्मार्ट ऊर्जा स्रोत आहे.

तरी भविष्याचा विचार करून पारंपारीक विजेसाठी लागणाऱ्या संसाधनाची कमतरता लक्षात घेता सौरऊर्जेचा उपयोग करणे अत्यंत गरजेचे आहे. सौरऊर्जा ही सुर्यप्रकाशावर निर्माण होते. व त्याची उपलब्धता बघता प्रचंड मोठे उर्जेचे स्रोत आपण उपयोगात आणून सध्या वापरत असलेल्या वीजेची बचत होऊ शकते.

भारताचे माननिय पंतप्रधान नरेंद्रजी मोदी यांच्या पीएम सूर्य घर मुफ्त बिजली योजनेचा फायदा घेऊन जास्तीत जास्त सौरऊर्जेचा वापर करावा असे मी सर्वांना आवाहन करतो.

प्रकाश य. दरेकर

अध्यक्ष

दि मुंबई डिस्ट्रिक्ट को-ऑप हौसिंग फेडरेशन लि.

CASE LAW

Continued from March 2025

12. The matter went into cold storage since the last order neither the BMC nor the Petitioners have taken any further steps. The illegalities continued blatantly despite the Orders of the removal of those illegalities and restoration of the premises.

13. A bare perusal of the reply of Respondent No.1 dated 4th August 2007 would reveal that, the entire Affidavit is replete with wrong notions and falsehoods stated with an intent to mislead the Court. In fact, it admits that the Respondent No.1 took possession of flat No.1A on 12th January 2005 in paragraph 5B i.e. on the next day that Dr. L Soneji expired. It also admits that there were disputes between the legal heirs of the deceased Dr. L. Soneji and that a Suit was filed in the Bombay High Court bearing Suit No. 949 of 2005.

14. The Affidavit attempts to lead us to believe that it is the society who is obstructing the use of the common amenities and is harassing the Respondent No. 1. Although it claims that the renovation work is carried on within the boundaries of law, the Respondent fails to produce any sanctions from the BMC permitting them to do so, it in fact admits that the Respondents continued the renovation work despite the Petitioners having gone to the Court seeking their stop of work, the Respondents blatantly call the Petitions and the notices of the

BMC hindrances and nuisance. The Respondents claim that the two flats have been interconnected for more than 25 years based on a proceeding in the Small Causes Court where a plan was submitted, and consent terms was filed on 28th April 1997. A bare perusal reveals it is not a sanctioned plan.

15. The Respondents seek to defend themselves based on the assessment done by the BMC and charging them as commercial premises for use of dispensary and tailoring shop. They also rely on the Shop and Establishment License issued on 1st January 1997 where they have sought permission to carry out the business of sale of garments from these two flats.

16. In our view, this would not suffice, a mere issuance of a shop and establishment license to carry out commercial activity does not amount to a permission granted to change the user from residential to commercial by a competent authority.

17. The Respondent also attempts to lead us to believe that the renovation work permission was granted by the society way back on 11th May 1996. However, a bare reading of the same would evince that the renovation sought to be done therein was with regard to flat No.2 alone and not with flat No.1A. In fact, it evinces an undertaking by the Respondent No.1

that no structural changes would be made whilst carrying out the work. It also reveals the terms and conditions of the Society for granting the 'no objection' relied upon. The terms of the Society categorically prevent structural changes and require as a pre-condition the Respondent Nos.1 & 2 to obtain necessary permissions from the BMC. Furthermore, an undertaking to indemnify the adjoining flats or shops is implied for any damage caused to the adjoining flats or shops and its rectification at the Respondent No.1's cost. The undertaking also secures itself from additional taxes on account of the additional work levied by the BMC to be borne by the Respondent Nos. 1 and 2.

18. By showing certain license fee receipts for rolling shutters paid, the Respondents attempt to lead us to believe that they had obtained permission from the BMC. There is no plan or permission as such attached by the Respondents. This is clearly an eyewash and misleading. The allegation that 'the Petitioners are hoping to extract monies from the Respondent' is also an attempt to form prejudice against the Society.

19. Evidently, the Respondent Nos.1 & 2 are responsible for endangering the lives of the Society members by removing the walls on the ground floor partitioning the flats. It is the Respondents who have flouted the law. They have not obtained any

permissions from the BMC. They have taken advantage of being adjoining flat owners and illegally usurped Late Dr. Sonaji's ownership premises without following the due process of law.

20. A law-abiding citizen is expected to submit the proposed alteration plans and take structural stability reports before carrying out structural alterations of demolishing several walls in the premises to amalgamate them, even assuming he was a legal owner of both flats. He could have voluntarily restored the flats to the original position. This is clearly contempt on the face of it. We therefore issue suo motu contempt against the Respondent Nos.1 & 2.

21. Evidently, the Affidavit filed on 6th January 2025 shows that the Respondent No.1 had no remorse for the illegalities and offenses committed by him. The attempt to defend his actions and inaction of the BMC, cannot justify the illegalities. In our view the Respondent Nos.1 & 2's actions are entirely violations of law.

22. There is nothing on record to show that the Respondent Nos. 1 & 2 were in joint possession with Dr. L Soneji. Admittedly, their purported Aunt was running a clinic from flat No.1A. Thus Respondent No.1's contention that he was in possession of flat No.1A is entirely misleading and unbelievable in the absence of cogent evidence.

23. The other argument that the Magistrate has acquitted the Respondent No.1 in the prosecution launched by the BMC thus legalizing his actions leaves us flabbergasted.

24. A perusal of the Magistrate's Judgement dated 2nd August 2013 particularly paragraphs 7 to 12 discloses that having launched the prosecution against the Respondent Nos.1 and 2, the material evidence required to prove the alteration/amalgamation of the flats namely the original sanctioned building plan of the building was not produced. This rendered the entire case, that lasted seven years, worthless and ineffective against the offenders permitting perpetuation of illegalities.

25. It is presumed that, the BMC officers were well aware that the sanctioned plan was material evidence for prosecuting the Respondent Nos. 1 and 2. Despite this evidence being a part of the BMC record it was not produced before the Court. It appears that it was willfully not produced. No attempt was made to even call upon the Society to produce it. It is presumed that the BMC would issue notice to the offender based on the sanctioned plans, more so as it was not an unauthorised building. It is not BMC's case that they had issued notice to the Respondent Nos. 1 & 2 at the instance of the Society without verifying the correctness of allegations/complaints. Naturally, we draw an inference that, the BMC's officers desired to protect

the offenders for the reasons best known to them. It is inconceivable that the BMC who has several departments such as the Assessment Department, the Building and Factory Department, the Sewerage Department and other departments and requires Architects to submit plans to each department for sanctions granted from each department would not have a single sanctioned plan from any department on its record.

26. Assuming, though unbelievable, that the BMC did not have it, we wonder, having issued the notices to the offender Respondents, what steps did the BMC officers take to update their record, especially when there was a complaint by the society against its member who had committed material illegality and had materially altered the building thereby leading to weakness of its structural stability.

27. It is settled law that the litigants must come to Court with clean hands. Any attempt to mislead the Court either by false statements and half-truths deserves to be expelled from the Courts to uphold the law and the dignity of the Courts.

28. This itself is a ground to take strict action against this litigant before this Court. He has sought to clearly show the Court in poor light and has abused the process in every manner and form and materially gained and enjoyed the benefits by amalgamating the two flats using them as shops by

commercially exploiting it, entirely prejudicial to the Society members, whose lives have been endangered on account of the removal of the walls on the ground floor.

29. We are extremely pained and peeved with the BMC. The BMC has failed to implement the notices issued under section 351 of the BMC Act in its letter and spirit. Under Section 522(1) of the BMC Act, the Police Commissioner by himself and through his subordinates are duty bound to render all assistance to the Municipal Commissioner, BMC to enforce the provisions of the BMC Act to maintain good order in the City. Pertinently, section 522(2) emphasis about the duty of every police officer in the City to communicate without delay to the proper municipal officer, any information which he receives of a design to commit or of the commission of any offence against this Act or against any regulation by by-law made under the BMC Act. Furthermore, it emphasizes that every police officer is duty bound to assist the Commissioner, the General Manager of the City or any municipal officer or seryant under this Act. The provisions are to maintain law and order in the Mumbai City. The BMC ought to have taken Police help to comply with the Court Orders.

30. It appears to us that, there is a trend of selective enforcement of the law. Having seen a rise in this

trend since past several months, we have appraised the current Municipal Commissioner as well as the Police Commissioner to stem this rot. After the Court passes Orders, it is then for the State Authorities to ensure its implementation to set things right. Non-implementation of directions passed by these Courts would embolden and encourage offenders and bring the State to anarchy and lawlessness.

31. In view of the aforesaid, we pass the following order:

- 1) Respondents Nos.1 and 2 are held guilty of contempt, having brazenly, willfully and successfully violated and continue to violate the Orders dated 22nd June, 2006 and 27th September, 2007 of the Court. The Registry to issue notice to Respondent Nos.1 and 2 to respond to the sentence term and fine under the Contempt of Courts Act.
- 2) The Respondent No.3 to calculate additional fine in accordance with Section 52 read with Section 43 of the MRTP Act read with Section 354 as per notice dated 28th February, 2005. It is clarified that the fine imposed must be on a daily basis since the illegality has continued since 28th February 2005 till date.
- 3) The Municipal Commissioner of Respondent No.3 to investigate as to why Orders of this Court

have not been implemented by the concerned Officers since 2007. The Municipal Commissioner also to investigate as to why despite the complaints that were lodged by the society as well as the notices issued by the BMC since 2005, no sanctioned plans of the building were produced either by the BMC or called upon to be produced by the society during the criminal complaints launched by the BMC against the Respondent Nos.1 and 2. It is evident from the judgment dated 2nd August, 2013.

- 4) We further direct the Municipal Commissioner to file a compliance Affidavit by 15th February, 2025 and he shall not delegate his powers to prepare and file the Affidavit to any subordinate Officer. The Affidavit must contain the steps taken to restore the building as per the sanctioned plan i.e. putting up the walls partitioning and or dividing the two flats as it stood at the time of sanction, to the satisfaction of the Society and its members.
- 5) Investigative steps taken by Commissioner of BMC to ascertain which officers were responsible for the non-compliance of Notices as well as Court Orders and the failure to restore the partition walls of the building and why this Court was not approached if faced with hurdles to effect compliance of its Orders.

- 6) What actions are going to be taken against these officers who have abetted and encouraged an emboldened persons such as Respondent Nos.1 and 2 to commit offenses and illegalities and to prevent its implementation for almost 20 years.

- 7) The Respondent Nos.1 and 2 to personally appear before this Court on 18th February 2025 as well as file an Affidavit by 3rd February, 2025 giving reasons why they should not be sentenced under the Contempt of Courts Act for flouting the Orders of the Court and continuing the offenses that have been committed by them by amalgamating the two flats without due permissions from the authorities as well as the society.

32. The Petition stands disposed off in terms of the aforesaid. In view of the disposal of the Petition, Notice of Motion No.496 of 2007 does not survive and the same is also stands disposed off.

33. List the matter on 18th February 2025 'for compliance'.

Ordered accordingly.

**Extract From -
2025(2) ALL MR 199 March, 2025**

CASE LAW 2

Bombay High Court ;Kiran K Sharma And Another vs Laxmi Estate Co-Operative Housing ... on 25 January, 2024 :-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3479 OF 2023

Kiran K Sharma And Another ...Petitioner

Versus

Laxmi Estate Co-operative Housing

Society Limited And 2 Ors. ...Respondent

**Mr. Tushar Gujjar a/w. Mr. Deepak Singh i/b. SL Partners, for
Petitioner**

**Mr. Vishal Kanade a/w. Ms. Tanaya Patankar i/b. Mr. A. R. Mishra,
for**

Respondent No.1. Ms. Uma Palsule desai, AGP for State.

The challenge in the present petition is to the Order dated 08 March 2021 passed by the Deputy Registrar, Co-operative Societies issuing certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960 (MCS Act) for recovery of dues from the Petitioner. The dues are not towards maintenance but towards penalty imposed under bye law No.167A for alleged commission of encroachment upon common space within the Society as well as interest on the amount of penalty. It appears that the Society kishor 2/5 23 WP 3479 of 2023 (OS) .doc has levied penalty of Rs.4,82,420/- and interest of Rs.46,419/- on Petitioner under provisions of bye law No.167A.

In ordinary course this Court would be loath in entertaining the petition against recovery certificate issued by Deputy Registrar in view of availability of alternate remedy of filing of Revision under Section 154 of the MCS Act. However, what is noticed in the present case is the fact that by issuing recovery certificate, Deputy Registrar has essentially dealt with the issue of nature of construction allegedly put up by the Petitioner. One of the contested issues before the Deputy Registrar was whether the construction put up by the Petitioner is authorized or otherwise. The Deputy Registrar has considered the certificate issued by the Architect and has recorded a finding of fact that the construction allegedly put up by Petitioner

is unauthorized one. In my view, the remit of inquiry under Section 101 of the MCS Act is extremely limited. While exercising the jurisdiction under Section 101 of the Act, the Registrar is not empowered to adjudicate upon the nature of construction and correctness of levy of penalty for putting up unauthorized construction. In its Judgment in M/s. Top Ten, A Partnership Firm Vs. State of Maharashtra, 2011 SCC On Line Bom 1608 the Division Bench of this Court has held that the very small type of disputes in which very limited inquiry into quantification of arrears due can be looked into by the Registrar while undertaking inquiry under Section 101.

In that view of the matter adjudication of factual disputes about nature of construction put up by Petitioner would clearly be outside the scope of the inquiry under Section 101 of the MCS Act. Mr. Kanade has invited attention to bye law No.167A which is now renumbered as 169 which provides as under :

"169. The Society shall not let out or give on leave and license basis or permit any subletting, giving on leave and license basis any Open spaces available under the staircases, Terraces / Open Ground / Lawns / Club House / Common Hall, etc. or to any person whether the member of the Society or not, for any purpose whatsoever.

All open / common area meant for use of all members for e.g. staircase, steps, landing areas, parking spaces, lift, corridor, and such other spaces, cannot be occupied by any member for his own use. The use of such areas shall be restricted to the cause for which these are meant. Any member found to be violating the above condition by encroachment shall have to vacate the encroachment and further he / she shall pay an amount equal to five times the monthly maintenance charges per month for the period for which he / she has encroached such spaces and further members must not carry out any constructions, structural changes over and above the sanctioned plan without prior permission of the society and concerned Municipal Authorities / Competent Authorities.

Also members must use the flat / unit for purpose it was meant / sanctioned. Any member violating the above directives shall pay an amount equal to five times the monthly maintenance charges, per month with retrospective effect for the period for which violation is existed."

No doubt under bye law No.167A, the Society is empowered to levy penalty from member for encroaching upon staircase, steps, landing areas, lifts, corridor or other common spaces. However, whether the construction put up by a member is of authorized nature or whether it violates the sanctioned plans is something which cannot strictly be covered by bye law No.167A. bye law No.167A cannot be interpreted to mean license for the kishor 4/5 23 WP 3479 of 2023 (OS) .doc

Society to recover penalty from its members who indulge into unauthorized construction. Recovery of such penalty in respect of unauthorized construction may be construed to mean authorization thereof and may also result in unjust enrichment to the Society. If the construction is unauthorized, the planning authority is bound to take action in respect thereof. The object behind incorporation of bye law No.167A is not to provide license to the Society to enrich itself on the basis of unauthorized construction put up by the member. Penalty under bye law No.167A is restricted only where a member encroaches upon common areas such as staircase, steps, landing areas, parking space, lift, corridor, etc. In my view therefore, the Registrar has exceeded jurisdiction in adjudicating factual dispute about nature of construction put up by the Petitioner. Thus, Order passed by Deputy Registrar is clearly unsustainable and deserves to be set aside.

Coming to the issue of availability of alternate remedy, since the Registrar's order is without jurisdiction, mere availability of alternate remedy would not bar jurisdiction of this Court. In *M/s. B. D. Jogani and Company and anr. Vs. Jaywant Industrial Premises Co-operative Society Limited and 2 Ors.*, Writ Petition (L) No.1803 of 2016 this Court has held as under :-

Heard learned Counsel for the parties. The petition challenges a recovery certificate issued by the Deputy Registrar of Co- operative Societies. The controversy pertains to certain penal parking charges levied by the Society against the Petitioners on the basis of a resolution passed by the Society. The merits of the Society's claim, namely, whether or not the Petitioners are using the parking space in an unauthorized manner, is already a subject matter of a pending suit between the parties, though subsequent to the application of the Society for a recovery certificate. Be that as it may, the question in the present application for recovery certificate is whether or not the Society is entitled to levy such penalty charges from a particular member. *Prima facie*, this is not a question, which the Deputy Registrar can go into in an application for recovery under Section 101 of the Maharashtra Co- operative Societies Act.

Learned Counsel for the Respondents submits that since there is an alternative remedy provided under Section 154 of the Maharashtra Co-operative Societies Act, this petition should not be entertained. The question as to whether or not the impugned recovery certificate could have been issued by the Deputy Registrar, is a matter pertaining to his jurisdiction. The case of the Petitioners is that the Deputy Registrar has exercised a jurisdiction, which does not belong to him. Since this pertains to illegal assumption of jurisdiction, *prima facie* existence of an alternative remedy will not bar a writ petition.

3. Hence, Rule. Pending hearing and final disposal of the petition, the recovery certificate issued by the Deputy Registrar is stayed, subject to the Petitioners paying Items Nos. 1 to 7 forming part of the recovery certificate.
 4. Learned Counsel for Respondent No.1 states that Items Nos.1 to 6 are paid and are comprised within the amount of Rs. 13,24,634/-.
- Anyway that is a matter of account. It is for the Society to check the same. If there is any controversy in that behalf, the parties can always come back to this Court.
7. At the same time, if indeed Petitioner has put up any unauthorized construction, Society is at liberty to file complaint with the Municipal Corporation for taking action in respect of Petitioner's structure. Nothing observed in the present Order would come in the way of Society filing such complaint and the Municipal Corporation taking action in the event of construction being found unauthorized.
 8. Writ Petition is accordingly disposed of by setting aside the Deputy Registrar's Order dated 08 March 2021. Petitioner would be at liberty to withdraw the amount deposited in this Court along with accrued interest.

सहकारी गृहनिर्माण संस्था सदस्यांसाठी निवडणूक अधिकारी प्रशिक्षण

महाराष्ट्र शासनाने नवीन निवडणूक नियमानुसार २५० पेक्षा कमी सभासद असलेल्या सहकारी गृहनिर्माण संस्थांच्या व्यवस्थापक समित्यांच्या निवडणुका घेण्याची संधी आता त्याच संस्थेच्या संचालकांना उपलब्ध करून दिली आहे. यामुळे गृहनिर्माण संस्थांच्या व्यवस्थापक समितीच्या निवडणुकांचे संचालन करण्याची संधी त्या संस्थेच्या सभासदांना उपलब्ध झालेली आहे. तथापि, यासाठी संबंधित सदस्य/ संचालकाने निवडणूक अधिकारी म्हणून नियमानुसार प्रशिक्षण घेणे आवश्यक आहे.

मुंबई डिस्ट्रिक्ट को-ऑप. हाऊसिंग फेडरेशन मार्फत असे प्रशिक्षण जुलै २०२१ पासून ऑनलाइन/ऑफलाइन पद्धतीने देण्यास सुरुवात झाली आहे. या प्रशिक्षण वर्गाचा लाभ मोठ्या संख्येने गृहनिर्माण संस्थांच्या सदस्य/संचालकांनी आजवर घेतला आहे. या प्रशिक्षणासाठी शुल्क प्रतिप्रशिक्षणार्थी ऑनलाइन रु.१,०००/- व ऑफलाइन रु. १,५००/- एवढे निश्चित करण्यात आले आहे. ज्या सदस्य/संचालकांना हे प्रशिक्षण घ्यावयाचे आहे त्यांनी आगाऊ नोंदणी करणे आवश्यक आहे. यासाठी mumbaihousingfederation.live या लिंकवर जाऊन नोंदणी करता येईल. या लिंकवर गेल्यानंतर एक फॉर्म उघडेल. त्यात इच्छुकाने आपली माहिती भरावयाची आहे. तसेच प्रशिक्षणाचे शुल्क सुद्धा याच लिंक मार्फत भरायचे आहे. ज्यांना प्रत्यक्ष शुल्क भरायचे आहे त्यांनी फेडरेशनच्या कार्यालयात कार्यालयीन वेळेत येऊन हे शुल्क भरले तरी चालेल. मात्र “प्रथम येणाऱ्यास प्राधान्य” तत्वानुसार प्रवेश मिळेल.

प्रशिक्षण कार्यक्रमाचे वेळापत्रक

दिनांक व वार	प्रकार	भाषा	वेळ
शनिवार, 03 मे 2025	ऑनलाइन/Online	मराठी/English	सायं. 5.30 ते 8.30

For queries please contact:

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Question & Answer

Q.No.1) If in a society Flat is closed for over 7 years, now society wants to repair the same as society going for structural audit and thereafter major repairs of the society building, but there is court dispute between the family members of the deceased members, are trying to establish their rights in the said flat of the deceased member how the society can proceed further in repairing the building?

Ans.No.1) If the flat is closed for 7 years and there is a court litigation among the heirs of the deceased member. In this regards if the court has issued any Status quo /Stay /Restraining society not to open the flat and enter therein for the repairing work in the interest of the society , then in that case the society shall issue legal notice to the heirs of the deceased member asking them to co-operate in the matter, if they are not co-operating then in that case , in the interest of the society and to maintain the building , the society has to intervene in the court proceeding and the society has to prove the necessity of repairing of the building and as per the court directions in the repairing work of the building ,the society shall obtain such order as required by the society in the repairing work by appointing there Advocate.

Q.No.2) In the society some members have given their flats on rental basis and parks their cars in the society premises itself, what action society can take?

Ans.No.2) In such case , the society has to frame the parking rules as per the provision given in the approved Byelaws No.78 to 84 of the society, wherein it is to be consider that if the member given his flat on rental with his parking space or any member

giving his flat on rental without having parking facility, in this regards society has to make its own Rules considering the all problems regarding parking of cars, its charges considering the number of parking spaces available in the society. These parking rules are to be framed society to society, its members, available parking space and number of vehicles. If the member has given his flat on rental and staying somewhere else and parking his own car in the compound of society or if he/she has given his parking space to his licence then the parking charges are to be decided in the rules framed by the society. Accordingly the society has to frame its rules considering the availability of parking space, if member having more than one car and also the society has to decide the parking charges as per the facts of the parking issue.

Q.No.3) If the secretary of the society sold his flat and also resigned from post of secretary and committee member post but whether such ex- secretary can continue and function as secretary until the new secretary is elected. How the functioning of the society can be conducted ?

Ans.No.3) If the Secretary has sold his flat and resigned from his post as a secretary and committee member, if his resignation is accepted in the committee or if is not accepted within 30 days by the committee in such case he is supposed to be resigned and thereafter such secretary can not take part in the functioning of the society, after accepting the resignation such ex-secretary has no any right authority or power to look after in the functioning of the society. The society shall immediately

elect the secretary or the society can co-opt some other eligible member as committee member as per the provisions and accordingly the society can elect the secretary and communicate to the registering authority about the co-option if any and about the electing the secretary. During such period the ex-secretary of the society can guide and co-operate in the functioning of the society, if the committee allows.

Q.No.4) If a member makes a Will and or Nomination of a particular person which of these has pre-dominance legally in its nature ?

Ans.No.4) As a nominee of the deceased member is a trustee holding the flat of the deceased on behalf of all other legal heirs, as a provisional member of the society without creating any third party rights also the nominee has to bring all other heirs of the deceased on record as per the legal heirship certificate or succession certificate or document of family arrangements duly executed among them, who are entitled to inherit the property of the deceased member. By this the capital property of the deceased member along with the shares of the society can be claimed by the heirs of the deceased member. If the member has made Will during his lifetime, such will supersedes the nomination then in that case the heirs have to obtain the Probate from competent court and as per the Probate the property of the deceased can be claimed accordingly as per Will. As the issue comes under the internal matter of legal heirs they have to resolve the same amongst themselves. Further it is as per choice of the heirs of the deceased member to decide how to go about the

property of the deceased member either by way of Nomination obtaining required certificates or by way of Will and obtaining Probate of which please note.

Q.No.5) What is the Corpus Fund in Re-development ?

Ans.5) If the building of the society is in dilapidated condition and it is not repairable due to strength and stability of the building, then in such case the society has to choose the Re-development procedure as per the Norms, Rules and Regulations of the Government's circulars issued time to time. Wherein the new building is to be constructed as per the provisions of DC (Development Control) Rules of 2034. Wherein as per the decision of General Body / SGM if the society has to Re-develop its building through the developer then in that case the society has to execute Registered Development Agreement between the society & the Developer wherein during the course of the Re-development there is a provision of Corpus Fund is provided therein, such Corpus Fund is a hardship compensation is provided to the members of the society, during the course of construction of new building which will be completed within three years or there about. During such period the members have to suffer hardship due to shifting some other place for such period, such Corpus Fund also used as per the need of the member and its future provisions in acquiring the new permanent alternate accommodation.

Adv. D. S. Vader.

Hon. Secretary

The Mumbai District Co-Op Hsg. Federation Ltd.

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