

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

THURSDAY, THE SIXTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SMT JUSTICE T.MADHAVI DEVI

WRIT PETITION NO: 33507 OF 2025

Between:

M/s. Necklace Price Apartment Flat Owners Mutually Aided Cooperative Maintenance Society Limited, represented by its Secretary Smt. Ramani Kanchinadham W/o. Sri Venugopal Kanchinadham, aged about 57 years Occ. Secretary, having office at Necklace Pride FOMACMSL Kavadiguda, Secunderabad - 500 003.

...PETITIONER

AND

1. The State of Telangana, represented by its Principal Secretary Cooperation Department, Secretariat, Hyderabad.
2. The Telangana Co-operative Tribunal, represented by its Registrar Chandravihar, M.J.Road, Hyderabad.
3. The Registrar of Cooperative Societies, represented by its Commissioner 3ra floor, Gruhakalpa building Nampally, M.J.Road, Hyderabad.
4. Dr. Singam Harinath Reddy, S/o. not known to petitioner aged about 54 years, Occ. Professional Practice R/o. Flat No.D-1001, Necklace Pride Apts., Kavadiguda, Secunderabad - 500 003.
5. Smt. Lata Hebbar, W/o. Dr. K.R. Hebbar, aged about 62 years R/o. Flat No.D-1401, Necklace Pride Apts., Kavadiguda, Secunderabad - 500 003.
6. Sri Hemendra R. Patel, S/o. Sri Ratilal M. Patel, aged about 50 years R/o. Flat No.D-804, Necklace Pride Apts. Kavadiguda, Secunderabad - 500 003.
7. Smt. Sravanthi Kumsi, S/o. Sri Surender Yogender, aged about 41 years R/o. Flat No.D-202 Necklace Pride Apts., Kavadiguda, Secunderabad - 500 003.
8. Sri Chintan Bharat Shah, S/o. Sri Bharat Shah, aged about 42 years, R/o. Flat No.D-902, Necklace Pride Apts. Kavadiguda, Secunderabad - 500 003.
9. Dr. M. Sheetal Kumar, S/o. Sri M. Srinivas Chary, aged about 43 years R/o. Flat No.E-704, Necklace Pride Apts., Kavadiguda, Secunderabad - 500 003.
10. Sri Konda Naveen Kumar, S/o. Sri Venu Murthy, aged about 48 years R/o. Flat No.D-1402, Necklace Pride Apts., Kavadiguda, Secunderabad - 500 003.
11. Sri Vishal Gupta, S/o. Sri Arun Kumar Gupta, aged about 45 years R/o. Flat No.D-503, Necklace Pride Apts. Kavadiguda, Secunderabad - 500 003.

12. Sri Yogesh Jindal, S/o. Sri Vijay Kumar Jindal, aged about 31 years R/o. Flat No.D-1002, Necklace Pride Apts. Kavadiguda, Secunderabad - 500 003.
13. Dr. B. Madhusudana Rao, S/o. Sri B. Ramaiah, aged about 61 years Rio. Flat No.E-304, Necklace Pride Apts., Kavadiguda, Secunderabad - 500 003.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to pass an order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the impugned order dated 15-10-2025 passed in I.A.No.242/2025 in O.P.No.56/2025 by the respondent No.2, in the petition filed by the respondents No.4 to 13 herein under Section 151 of the Code of Civil Procedure, 1908 read with Section 26 of the Tribunal Procedure Rules, thereby staying impugned resolution dated 25/05/2025 passed by special general body of the petitioner society and also directing the petitioner society not to discuss/include any agenda which is connected with the O.Ps. filed before the respondent No.2 as it is pending adjudication, as illegal, arbitrary, high handed, unreasonable and violative of law and the principles of natural justice, to set aside the same and consequently directing the respondent No.2 not to entertain any petition presented by the respondents No.4 to 13 or others through them relating to collection of maintenance by the petitioner on square feet basis as per general body resolution, in the interest of justice.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to pass an order suspending the operation of the impugned order dated 15-10-2025 passed in I.A.No.242/2025 in O.P.No.56/2025 by the respondent No.2, in the petition filed by the respondents No.4 to 13 herein under Section 151 of the Code of Civil Procedure, 1908 read with Section 26 of the Tribunal Procedure Rules, pending disposal of the present writ petition, in the interest of justice.

Counsel for the Petitioner: SRI SHYAM S AGRAWAL

Counsel for the Respondent Nos.1 to 3: GP FOR COOPERATION

Counsel for the Respondent Nos.4 to 9,12 and 13: M/S RAHUL KHANDHAKAR

Counsel for the Respondent Nos.10 and 11: SRI RESU MAHENDER REDY

The Court made the following: ORDER

THE HON'BLE SMT. JUSTICE T. MADHAVI DEVI

WRIT PETITION No.33507 OF 2025

ORDER:

In this Writ Petition, the petitioner is challenging the order dated 15.10.2025 passed in I.A.No.242 of 2025 in O.P.No.56 of 2025 filed by respondent No.2, in the petition filed by respondent Nos. 4 to 13 under Section 151 of the Code of Civil Procedure, 1908 read with Rule 26 of the Tribunal Procedure Rules, whereby the impugned resolution dated 25.05.2025 passed by the Special General Body Meeting of the petitioner society was stayed by the Tribunal, as illegal and arbitrary.

2. Heard learned counsel for the petitioners, learned Government Pleader for Co-operation, appearing for respondents No.1 to 3 and M/s. Rahul Khandhakar, learned counsel appearing for respondents No.4 to 9, 12 and 13 and Sri Resu Mahender Reddy, learned counsel appearing for respondents No.10 and 11.

3. Brief facts leading to the filing of this writ petition are that the property by name M/s.Necklace Pride Apartments consisted of 434 flats in 5 blocks and the Society was formed in 2021 and from the date of its formation, the maintenance charges are being collected per square feet basis. Fourteen (14) members of the petitioner's Society have filed O.P.No.14 of 2025 along with I.A.No.67 of 2025 against the collection of the maintenance charges on "square feet basis" and not as "per flat basis." The Tribunal allowed I.A.No.67 of 2025 vide order dated

11.04.2025 observing that as per the by-laws of the Society, the Board is not competent to fix up the maintenance and it is mandatory for the General Body of the Society to fix the maintenance. Therefore, the Tribunal has granted interim suspension of the invoices issued for collection of maintenance charges and the Tribunal has also directed the Society to collect the maintenance equally and that there shall not be any coercive steps for collection of maintenance charges. Thereafter, the petitioner's Society has called for a Special General Body Meeting and the same was held on 25.05.2025 at 11 a.m. and it is claimed that 181 members have attended the meeting, however, the resolution was passed by a majority of 168 members in favour of and 9 against the resolution. The resolution was passed for collection of common area maintenance charges on square feet basis. Challenging the conduct of the Special General Body Meeting, the respondents No.4 to 13 have filed O.P.No.56 of 2025 before the Tribunal along with I.A.No.242 of 2025 for suspension of operation of resolution dated 25.05.2025. Vide docket order dated 15.10.2025, the Tribunal has observed that the Society appears to have conducted the Special General Body Meeting with a sole intention to dilute the orders passed by the Tribunal and that there appears to be interpolation of the resolution. Therefore, the Tribunal observed that the *prima facie* view of the impugned resolution is liable to be stayed pending further orders. The Tribunal has further directed the Society not to discuss or include any agenda which is connected to the O.P's filed before it as it is pending adjudication and

the matter was directed to be posted for hearing on 11.11.2025. Challenging the docket order dated 15.10.2025, this writ petition is filed.

4. Learned counsel for the petitioner submitted that as per the observations of the Tribunal, in the docket order dated 11.04.2025 in I.A.No.67 of 2025 in O.P.No.14 of 2025, the petitioner's Society has convened Special General Body Meeting and has passed resolution by way of majority and therefore, it could not have been stayed by the Tribunal, without issuing notice to the petitioner and therefore, it is in violation of principles of natural justice.

5. Learned senior counsel appearing for respondents No.4 to 13, however, submitted that the Tribunal has already passed orders to collect the maintenance charges per flat basis and in violation of the same, the petitioner's Society has issued invoices for maintenance on per square feet basis and is collecting maintenance and that the petitioners are also paying the same under protest. It is submitted that in order to circumvent the order of the Tribunal, the Special General Body Meeting was convened and the petitioner's Society has challenged the procedure adopted in conducting the Special General Body Meeting vide O.P.No.56 of 2025. He placed reliance on the judgment of the Bombay High Court reported in ***Venus Cooperative Housing Society and Another vs. Dr.J.Y.Detwani & Ors***¹ upon the issue of collection

¹ 2002 SCC Online Bom 1457

of maintenance charges per square feet basis or per flat basis and submitted that the said decision has become final and the same ought to have considered in the General Body Meeting before passing any resolution. He submitted that the decision of the General Body cannot be arbitrary or unreasonable, but has to be in accordance with law. He supported the order of the Tribunal stating that since the issue is pending for adjudication before the Tribunal, the same ought not to have been discussed in the General Body Meeting.

6. Having regard to the rival contentions and the material on record, this Court finds that the order of the Tribunal in O.P.No.14 of 2025 in I.A.No.67 of 2025 is only that the Board of Directors cannot decide the maintenance charges and it is the General Body which can take the decision. Accordingly, the Special General Body Meeting was convened. Therefore, it cannot be said that the meeting was convened and conducted to flout the orders of the Tribunal. The method or procedure adopted while conducting the General Body Meeting can be assailed by the aggrieved persons as is done by filing O.P.No.56 of 2025. However, the Tribunal erred in holding that the Society has conducted General Body Meeting with a sole intention to dilute the orders passed it, therefore, staying the resolution passed in the General Body Meeting, without issuing notice to the respondents. The further observations in the docket order 15.10.2025 are also not sustainable as the General Body cannot be prevented from discussing an issue, which is pending

before the Courts. It may be prevented from taking a decision, if the issue is sub-judice. Therefore, the observations of the Tribunal in the docket order dated 15.10.2025 are set aside and the Tribunal is directed to re-consider the issue on merits, after hearing both the parties, expeditiously, preferably within a period of two (02) months from the date of receipt of a copy of this order. The issue of validity of the General Body Meeting is kept open.

7. Accordingly, the Writ Petition is allowed. There shall be no order as to costs. Miscellaneous applications, if any, pending in this writ petition stand closed.

SD/- T. SRINIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary Cooperation Department, Secretariat, The State of Telangana, Hyderabad.
2. The Registrar Chandravihar, The Telangana Co-operative Tribunal, M.J.Road, Hyderabad.
3. The Commissioner 3ra floor, The Registrar of Cooperative Societies, Gruhakalpa building Nampally, M.J.Road, Hyderabad.
4. One CC to Sri Shyam S Agrawal, Advocate [OPUC]
5. Two CCs to GP for Cooperation, High Court for the State of Telangana, at Hyderabad [OUT]
6. One CC to Sri Rahul Khandhakar, Advocate[OPUC]
7. One CC to Sri Resu Mahender Reddy, Advocate[OPUC]
8. Two CD Copies

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HIGH COURT

DATED:06/11/2025

ORDER

WP.No.33507 of 2025



**ALLOWING THE WRIT PETITION
WITHOUT COSTS**

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01/12/25