IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.676 OF 2026
WITH
INTERIM APPLICATION (STAMP) NO.19005 OF 2026
IN
APPEAL FROM ORDER NO.676 OF 2026

Sattva New Heights Private Limited,
a company incorporated under the provisions of Companies Act, 2013 having its registered office at C-1411, 14th Floor, One BKC, Bandra Kurla Complex, Mumbai, Maharashtra 400051. …Appellant/ Applicant

Versus

1. Shri Mukund Vaman Patankar,
aged 89 years, adult Indian Inhabitant,
residing at Kisan Nagar, Kameri Road,
Islampur, Sangli District - 415 109.

2. Shri. Shekhar Jayant Malihalli,
aged 60, adult Indian Inhabitant,
residing at Flat No. 12, Wing B - 9/1,
Dudhsagar Cooperative Housing Society
Limited, Ciba Road, Goregaon (East),
Mumbai 400 065.

3. Dudhsagar Co-operative Housing Society
Limited, a co-operative society registered
under Maharashtra Co-operative Societies Act,
1960 having its address at
Dudhsagar Co-operative Housing Society Ltd,
Ciba Road, Goregaon (East),
Mumbai 400 065.

4. Space Design and Development Private
Limited, a company incorporated under the
provisions of Companies Act, 2013, having its

registered office at 801, Bhushan CHSL,
R.M. Bhattad Marg, Kalpana Chawla Chowk,
Haridas Nagar, Borivali West, Mumbai-400092.

5. Nilesh Prabhakar Pandit,
Director of Space Design and Development Private Limited, having his registered office at 801, Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali West, Mumbai-400092.

6. Anagha Nilesh Pandit, Director of Space Design and Development Private Limited, having his registered office at 801, Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali West, Mumbai - 400092.

7. Sandeep Isore, Employee of Space Design and Development Private Limited, having his registered office at 801, Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali, West, Mumbai – 400092.

WITH
INTERIM APPLICATION (STAMP) NO.19996 OF 2026
IN
APPEAL FROM ORDER NO.676 OF 2026

Mukund Vaman Patankar,
Age: 89 years, Occupation : Retired,
R/at Kissan Nagar, Kameri Road,
Islampur, Sangli District – 415109
Through Power of Attorney Holder - Shamkant Mukund Patankar
Age : 60 years, Occu: Self employed
Having address as above. …Applicant [Orig.Respondent No.1]

IN THE MATTER BETWEEN :

Sattva New Heights Private Limited,
a company incorporated under the provisions of

Companies Act, 2013 having its registered office at C-1411, 14th Floor, One BKC, Bandra Kurla Complex, Mumbai, Maharashtra 400051. ...Appellant

Versus

1. Shri Mukund Vaman Patankar,
aged 89 years, adult Indian Inhabitant,
residing at Kisan Nagar, Kameri Road,
Islampur, Sangli District - 415 109.

2. Shri. Shekhar Jayant Malihalli,
aged 60, adult Indian Inhabitant,
residing at Flat No. 12, Wing B - 9/1,
Dudhsagar Cooperative Housing Society
Limited, Ciba Road, Goregaon (East),
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Limited, a co-operative society registered
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1960 having its address at
Dudhsagar Co-operative Housing Society Ltd,
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Mumbai 065. 400

4. Space Design and Development Private
Limited, a company incorporated under the
provisions of Companies Act, 2013, having its
registered office at 801, Bhushan CHSL,
R.M. Bhattad Marg, Kalpana Chawla Chowk,
Haridas Nagar, Borivali West, Mumbai-400092.

5. Nilesh Prabhakar Pandit,
Director of Space Design and Development
Private Limited, having his registered office
at 801, Bhushan CHSL, R.M. Bhattad Marg,
Kalpana Chawla Chowk, Haridas Nagar,
Borivali West, Mumbai-400092.

6. Anagha Nilesh Pandit, Director of Space
Design and Development Private Limited,

having his registered office at 801, Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali West, Mumbai - 400092.

7. Sandeep Isore, Employee of Space Design and Development Private Limited, having his registered office at 801, Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali, West, Mumbai – 400092. ...Respondents

WITH
APPEAL FROM ORDER (STAMP) NO.18996 OF 2026
WITH
INTERIM APPLICATION (STAMP) NO.19103 OF 2026
IN
APPEAL FROM ORDER (STAMP) NO.18996 OF 2026

Dudhsagar Co-Operative Housing Society Limited, a co-operative society registered under Maharashtra Co-operative Societies Act, 1960 having its address at Dudhsagar Co-operative Housing Society Ltd., Ciba Road, Goregaon (East), Mumbai – 400 065. …Appellant/ Applicant

Versus

1. Shri Mukund Vaman Patankar, aged 89 years, adult Indian Inhabitant, residing at Kisan Nagar, Kameri Road, Islampur, Sangli District-415 109.

2. Shri. Shekhar Jayant Malihalli, aged 60, adult Indian Inhabitant, residing at Flat No. 12, Wing B-9/1, Dudhsagar Cooperative Housing Society Limited, Ciba Road, Goregaon (East), Mumbai 400 065.

3. Space Design and Development Private Limited, a company incorporated under the provisions of Companies Act, 2013,

having its registered office at 801,
Bhushan CHSL, R.M. Bhattad Marg,
Kalpana Chawla Chowk, Haridas Nagar,
Borivali West, Mumbai-400 092.

4. Sattva New Heights Private Limited,
a company incorporated under the
provisions of Companies Act, 2013
having its registered office at C-1411,
14th Floor, One BKC, Bandra Kurla Complex,
Mumbai, Maharashtra 400051.

5. Nilesh Prabhakar Pandit,
Director of Space Design and Development
Private Limited, having his registered office
at 801, Bhushan CHSL, R.M. Bhattad Marg,
Kalpana Chawla Chowk, Haridas Nagar,
Borivali West, Mumbai-400092.

6. Anagha Nilesh Pandit, Director of Space
Design and Development Private Limited,
having her registered office at 801,
Bhushan CHSL, R.M. Bhattad Marg,
Kalpana Chawla Chowk, Haridas Nagar,
Borivali West, Mumbai - 400092.

7. Sandeep Isore, Employee of Space Design and
Development Private Limited,
having his registered office at 801,
Bhushan CHSL, R.M. Bhattad Marg,
Kalpana Chawla Chowk, Haridas Nagar,
Borivali West, Mumbai 400092. … Respondents

WITH
APPEAL FROM ORDER (STAMP) NO.19074 OF 2026
WITH
INTERIM APPLICATION (STAMP) NO.19302 OF 2026
IN
APPEAL FROM ORDER (STAMP) NO.19074 OF 2026

1. SDAD Space Design and) Development Private Limited, a provisions of Companies Act, 2013, having its registered office at 801, company incorporated under the Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali West, Mumbai-400 092.

2. Nilesh Prabhakar Pandit, Director of SDAD Space Design and Development Private Limited, having his registered office at 801, Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali West, Mumbai 400092.

3. Anagha Nilesh Pandit, Director of SDAD Space Design and Development Private Limited, having her registered office at 801, Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali West, Mumbai 400092.

4. Sandeep Isore, Employee of SDAD Space Design and Development Private Limited, having his registered office at 801, Bhushan CHSL, R.M. Bhattad Marg, Kalpana Chawla Chowk, Haridas Nagar, Borivali West, Mumbai-400092.

…Appellants/
(Org. Defendant
Nos. 2 & 4 to 6)

Versus

1. Shri Mukund Vaman Patankar, aged 89 years, adult Indian Inhabitant, residing at Kisan Nagar, Kameri Road, Islampur, Sangli District 415 109.

2. Shri. Shekhar Jayant Malihalli, aged 60, adult Indian Inhabitant, residing at Flat No. 12, Wing B-9/1, Dudhsagar Cooperative Housing

Society Limited, Ciba Road, Goregaon (East), Mumbai-400065.

3. Dudhsagar Co-operative Housing Society Limited, a co-operative society registered under Maharashtra Co-operative Societies Act, 1960, having its address at Dudhsagar Co-operative Housing Society Ltd, Ciba Road, Goregaon (East), Mumbai 400 065.

4. Sattva New Heights Private Limited, a company incorporated under the provisions of Companies Act, 2013 having its registered office at C-1411, 14th Floor, One BKC, Bandra Kurla Complex, Mumbai, Maharashtra-400051.

...Respondents (Org. Plaintiffs & Defendant Nos. 1 & 3)

Mr. Zal Andhyarujina, Senior Advocate a/w Mr. Rohaan Cama, Ms. Jasmine Kachalia, Mr. Karan Bhide, Mr. Viren Mandhle, Mr. Brian Noronha i/b Wadia Ghandy and Co. for the Appellant in AO/676/2026 and for Applicant in IA(ST) No. 19005 of 2026

Mr. Virag Tulzapurkar, Senior Advocate a/w Mr. Pankaj Thatte, Mr. Amit Sharma, Ms. Renu More, Ms. Karishma Nadar, Ms. Sucheta Dongre for the Appellant in AO (ST)/18996/2026, for Applicant in IA(ST)/19103/2026 and for the Respondent No. 3 in AO/676/2026, AO(ST)/19074 of 2026 and IA(L)/19005/2026 and IA(L)/19302 of 2026

Mr. Karl Tamboly a/w Mr. Shanay Shah, Mr. Suraj Iyer, and Ms. Gauri Joshi i/b Ganesh and Co. for the Appellant in AO(ST)/19074/2026 and for the Applicant in IA(ST)/19302/2026

Mr. Mayur Khandeparkar i/b Ms. Vaishnavi M. Gujarathi and Mr. Abhishek S. Matkar for the Respondent Nos. 1 and 2 in AO/676/2026

Mr. Aseem Naphade a/w Mr. Sanket Donugade i/b Ms. Vaishnavi Gujarathi for the Respondent No. 1

Mr. Aseem Naphade i/b Mr. Abhishek Matkar for the Respondent No. 2

Mr. Rajeev Matkar a/w Mr. Pradeep Wagh i/b Ms. Vaishnavi M. Gujarathi and Mr. Abhishek S. Matkar for Respondent Nos. 1 and 2 in AO(ST)/18996/2026

CORAM	**:**	**SHARMILA U. DESHMUKH, J.**
RESERVED ON	**:**	**AUGUST 6, 2026**
PRONOUNCED ON	**:**	**AUGUST 24, 2026**

JUDGMENT :

1. Heard. **Admit.** With consent taken up for final hearing.

2. The captioned group of Appeals is filed at the instance of the original Defendants viz the Society, the Developer and the Project Management Consultant being aggrieved by the order dated 25th June, 2026, passed by the Trial Court in Notice of Motion No. 1112 of 2026, in S.C. Suit No. 594 of 2026, granting interim relief in terms of prayer clauses (A) to (C) of the Notice of Motion.

3. The Plaintiffs are two members of the Defendant No 1 Co-operative Housing Society. The Defendant No 2 is the Project Management Consultant ("**PMC**") and Defendant No 3 is the Developer, who are appointed for re-development of Defendant No 1 Society. The Defendant No 4 and 5 are the Directors of PMC and the Defendant No 6 is stated to be an employee of the PMC.

4. Prayer clauses (A) to (C) of the Notice of Motion seeks injunctive reliefs against the Defendants from acting upon the tender floated by

Defendant Nos. 1 and 2, to restrain Defendant Nos. 2, 4 and 5 from acting as PMC, and to restrain Defendant No. 1 from entering into any Development Agreement and/or Power of Attorney in favour of Defendant No. 3 in respect of development of the suit land. For sake of clarity, the parties are referred to by their status before the Trial Court.

5. The plaint sets out the details of the SGBM's held from the first meeting resolving to redevelop the property to the meetings held for appointment of PMC and the Developer. The suppression is pleaded on the ground that the members were informed about two schemes for re-development under DCPR 33(19) and 33 (9) by the Defendant No 1 and 2, whereas re-development under Regulation 33(19) was not permissible in Eco Sensitive Zone II. It is pleaded that the commercial offers received from 9 developers were first scrutinised by the PMC and were informed to the members by presenting comparative chart of commercial offers. In the SGBM of 20th July, 2025, it was revealed that instead of providing annual turnover of PMC, the annual turnover of group companies was provided and decision was taken to consult legal adviser and in the event there is violation of terms and condition, the PMC to be replaced in third phase.

6. The five shortlisted bidders were asked to submit "no regret offer/final offer" on or before 12th September, 2025, in sealed envelopes, which were opened in presence of members on 13th/14th

September, 2025 and that the "no regret offer" was only to cover up fraud and suppression of ESZ II category in the general body meetings and in tender document.

7. It is pleaded that for the first time, by circular dated 18th September, 2025, the Defendant No. 1 informed the members about the visit of the committee members to the office of Corporation on 15th September, 2025, where they were informed that the suit land falls within the Eco-Sensitive Zone **(`ESZ')** since the year 2016 and now it is classified as ESZ-II in draft plan, and therefore, it would not be possible to construct a completely separate commercial tower, office, etc., in the redevelopment project.

8. In the SGBM of 21st September, 2025, the members were called upon to select one developer as preferred developer, which came to be postponed, and on 28th September, 2025, the SGBM selected the Defendant No. 3 as the preferred developer. On 12th October, 2025, a draft Letter of Intent **(`LOI')** was issued by Defendant No. 1. The appointment of Defendant No 3 is assailed on the ground that Defendant No 3 did not fulfill the registration and financial criteria as it is a five year old company and has not done any development work in Mumbai. Its financials are shown by collecting figures of sister concern and associates.

9. The interim application sought reliefs aimed at preventing further process of redevelopment pursuant to the appointment of Defendant No. 2 as PMC and Defendant No. 3 as the developer. In the additional affidavit filed by the Plaintiffs in support of Notice of Motion, it was pleaded that, in the meantime, on 23rd March, 2026, the Defendant No. 1 had circulated a message that the land of the Society does not fall in ESZ-II, but falls in ESZ-I, which development goes to the root of the matter because the entire process was done on a completely faulty footing.

10. The affidavit of Defendant No. 1 Society sets out the resolutions passed in the SGBMs as regards the appointment of PMC, approval of the tender, inviting of bids, and approval of Defendant No. 3 as the developer. The action by Plaintiffs, being miniscule minority, cannot be sustained as will of majority will prevail. It is pleaded that there is no challenge to the SGBMs and the PMC's agreement. It was pleaded that the LOI was issued on 12th October, 2025, and the Plaintiffs have acquiesced in the entire process while third-party rights had been created.

11. The Defendant No. 3, by its affidavit in reply, while reiterating the stand taken by the Defendant No. 1 Society, further stated that the tender categorically provided that all costs, premiums, fees, and charges for conversion of the land to freehold would be borne and paid by the developer. Annexure-4 of the tender categorically mentions that the subject land falls in ESZ, as notified under the Notification of 5th December 2016, which is also part of DP remarks. The subsequent categorization into ESZ-I and ESZ-II was pursuant to a Government decision dated 20th March, 2026, much after issuance of tender and appointment and selection of the developer, and which has no bearing, as the categorization is with regard to the use and nature of development that can be undertaken.

12. It was pleaded that Defendant No. 3 is subsidiary company of Sattva Developers Private Limited **(`SDPL')**, which is part of the Sattva Group, a reputed real estate Company, and has completed several residential and commercial projects. The Defendant No. 3 has been specially constituted as a Special Purpose Vehicle to undertake development of real estate projects under the aegis of its parent company, SDPL, and therefore fulfills the requisite criteria provided in the tender. It is further pleaded that the LOI dated 27th November, 2025 records that SDPL and Vijay Agarwal, being the promoter of the Sattva Group, will maintain a minimum 75% equity stake in Defendant No. 3 throughout the redevelopment process and has agreed to be a confirming party and sign the Development Agreement to be executed between Defendant Nos. 1 and 3.

13. In the affidavit of Defendant Nos. 2, 4, and 5, i.e., the PMC, it was pleaded that after following due process of law, the PMC has been appointed, which appointment was approved unanimously in the SGBM dated 17th December, 2023 and agreement was executed on 7th July, 2025. It was pleaded that PMC does not have a vote in the Society's decision-making process and, therefore, cannot be held liable for the will of the majority expressed in the tender or the SGBM. There is no challenge either to the minutes of the SGBM dated 17th December, 2023 or to the PMC's agreement.

14. The Defendant No. 6, i.e. Sandeep Isore, filed a reply affidavit pleading that Defendant No. 6 is the sole proprietor of one M/s. Planet E Consultants and has been engaged by the Defendant No.1 Society in an advisory role, and his involvement is strictly circumscribed by the professional mandate of PMC's agreement, which is not in challenge.

15. In the rejoinder affidavit, it is pleaded that in the meeting held on 30th July, 2023, there was mis-representation that Defendant No. 4 is the director of Defendant No. 2, and Defendant No. 6 being associate partner of Defendant No. 4. The Defendant No. 6 represented that he was qualified architect working on a proposed project at Bhendi Bazaar, whereas the profile of the said Bhendi Bazaar project from the official website shows some other person as a principal architect and associate architect. In the SGBM of 20th July, 2025, serious objections were raised to the appointment of Defendant No. 2 as PMC, and it was resolved that the matter should be referred to the advocate of the Society and a reply given to the members, and no General Body was required for that purpose.

16. It was further pleaded that the Defendant No. 3 is proxy of a Bengaluru-based Company SDPL and the draft development agreement shows that the agreement is sought to be executed with SDPL, who is not a bidder, and the non-bidder is shown to be responsible for the performance guarantee in respect of the work done by Defendant No. 3. It is further pleaded that the qualified architect gave presentations in all other permissible categories except Regulation 33(19), which is impermissible for ESZ-II, and it is improbable that he had not advised Defendant No. 1 Society about ESZ-II not permitting independent commercial complexes under Regulation 33(19).

17. The mandate of the Government Resolution **(`G.R.')** dated 4th July, 2019 has been violated inasmuch as the appointment of Defendant No. 2 as PMC is contrary to the G.R. As the very tender itself is sought to be challenged, it takes within its sweep all the resolutions involved in the process. The tender was floated for the project under Regulation 33(19) and purported selection was done under Regulation 33(9), which was an unfair tender process.

18. The prima facie findings of the Trial Court in the impugned judgment dated 25th June, 2026, can be summarised as under:

(I) The suit land is located in ESZ, and there can be no development of residential and commercial buildings in ESZ;

(II) Defendant No 3 is not qualified as per the tender criteria.

(III) Members were not informed about suit land being classified as ESZ II and were misled about permissible development regulations.

(IV) Tender does not disclose about ESZ II, conversion from leasehold into free hold and pendency of stamp duty appeal.

(V) Three reputed builders have not shown their willingness under DCPR 33(19) and in respect of construction of commercial unit, evidence is required to be led.

(VI) Objections were raised as to appointment of Defendant No 2.

19. At the outset, Mr. Khandeparkar, learned Counsel appearing for the Plaintiffs in A.O. 676 of 2026 submits that he does not press the issue of non-disclosure of the land conversion and stamp duty and confines his argument only to the ESZ issue and the financial credentials of Defendant No. 3.

20. Mr. Tulzapurkar, learned Senior Advocate appearing for the Defendant No. 1 Society, would submit that, in the SGBM, the majority of the members passed the resolution for redevelopment of the

Society, appointment of PMC, approval of the tender terms, and appointment of the developers. He submits that it is settled position in law that minority members of the Society cannot interfere with the redevelopment process undertaken by a Society on behalf of its members and the resolutions, unless overturned, are binding. He submits that the Trial Court could not have substituted its wisdom for the collective wisdom of the members of the Society.

21. He has taken this Court in detail through the findings of the Trial Court to contend that the Trial Court has erroneously held that the suit land falls in ESZ but the Defendant No 3 wants to develop residential and commercial buildings, that no explanation was given in SGBM about construction of commercial units and that the same was not disclosed in the tender.

22. He submits that the Notification dated 5th December 2016 permits construction of commercial building and commercial redevelopment to the extent allowed under the MRTP Act subject to sanctioned Rules and Regulations. He submits that, as the ESZ Notification of 5th December 2016 did not classify the property into ESZ-I and ESZ-II, there was no question of disclosure of such classification, which came later in the year 2026.

23. He would further point out that the tender mentions about the plot under reference being in Sanjay Gandhi National Park ESZ under the Notification dated 5th December, 2016 and that the tender mentions about ESZ NOC. He submits that in the SGBM convened on 13th October, 2024, the draft tender document was approved, which provided for two options: one under DCPR Regulation 33(19), pertaining to construction of residential complex for 300 existing members including a commercial component, and the other option was redevelopment under DCPR Regulations other than 33(19), such as those falling under 33(9) cluster development scheme, pertaining to construction of a fully residential complex or a residential-cum-commercial complex for both existing members and new members.

24. He would submit that, based on the terms of the tender, nine developers submitted bids, out of which six developers submitted bids under Regulation 33(9) and 33(19) of DCPR. He would further point out the comparative chart prepared by PMC comparing the offers submitted under Regulation 33(9) and Regulation 33(19) of DCPR, and the intimation about the same to the members vide letter dated 15th March 2025.

25. He would further point out that the commercial proposal submitted by the developers under Regulation 33(9) and 33(19) of DCPR was also discussed in the SGBM held on 27th April 2025 and points out the extract of the deliberation. He would submit that the minutes of the SGBM would clearly indicate that the issue as regards development under Regulation 33(9), 33(19), and permissibility of commercial construction was discussed and deliberated in detail by the members of the General Body of the Appellant.

26. He would further submit that subsequently, by a Notification of 9th September 2025, MoEF invited suggestions and objections to the draft Zonal Plan of ESZ for Sanjay Gandhi National Park, where the classification was introduced for the first time. He submits that the subsequent regulatory change cannot be construed as a ground of non-disclosure in the tender, nor can it vitiate the tender. He would further submit that, as the land was wrongly classified as ESZ-II instead of ESZ-I, the PMC objected to the classification and sought rectification of the same. He would submit that there was no prohibition for commercial development even under the draft Zonal Plan in ESZ-II classified properties. He submits that immediately upon the draft Zonal Plan being published for inviting objections and suggestions, the Society, by letter dated 18th September 2025, informed the same to its members and that a formal objection would be lodged with the Government as regards the classification. He submits that, there has been a full and complete disclosure to all the members of the Society, and an informed decision has been taken in the SGBM.

27. He submits that the Defendant No 3 was selected as a developer during the SGBM held on 28th September 2025, and accordingly LOI was issued on 12th October 2025, and the letter of 17th December 2025 stated that development of the land will be undertaken under Regulation 33(9) of DCPR. He submits thereafter, by a Government decision of 20th March 2026, the property was classified as ESZ-I.

28. Mr. Tulzapurkar submits that there is no question of any non-disclosure as the LOI issued to Defendant No. 3 clearly specified Regulation 33(9) under which the redevelopment is proposed. He submits that the tender documents make it clear, and it was understood by the bidders, that the redevelopment can be undertaken under Regulation 33(9) or 33(19), with the only difference being that in 33(19), a separate commercial structure can be constructed. In support, he relies on the following decisions :

- ***i.*** ***Bengal Secretariat co-operative Land Mortgage Bank & Housing Society Limited v. Aloke Kumar & Anr.***[1]
- ***ii.*** ***Margaret Almeida & Ors. v. Bombay Catholic co-operative Housing Society Ltd. & Ors.***[2]
- **iii.** ***Devyani Gulabsi v. Saidale Co-operative Housing Society Limited & Ors.***[3]

29. Mr. Andhyarujina, learned Senior Advocate appearing for the Defendant No. 3, submits that the Trial Court has held against Defendant No. 3 on the ground that the Special Purpose Vehicle is at a

1 (2024) 14 SCC 466
2 (2013) 6 SCC 538
3 2025 SCC OnLine 3622

loss and there is non-disclosure of the financials of the parent company. He points out Clause (4) of Section 6 of the General Conditions of Development of the tender, which clearly provides that the developer can execute the project only through its parent company. He points out that the finding of the Trial Court is factually erroneous as it holds that Defendant No. 3 seeks to carry out the redevelopment project through its sister company.

30. He would further submit that the pre-qualification criteria required a consolidated net worth of not less than Rs. 800 crores. Drawing attention to the provisions of Section 129(3) of the Companies Act, he submits that the use of the words "consolidated net worth" means the consolidated net worth of the parent company and the subsidiary company. He has further taken this Court through the definition of subsidiary company under Section 2(87) of the Companies Act. He submits that there is specific pleading in reply affidavit that the parent company of Defendant No. 3 is Sattva Developers Private Limited, which has not been rebutted by rejoinder and has not been considered by the Trial Court.

31. He submits that in the meeting held on 27th April 2025, it was clarified by the PMC that SDPL is the parent company and they were found to be developers of excellent standard. He submits that the SGBM considered the issue of the negative net worth of Defendant No.

3. He would point out the discussion in the said meeting and also that a decision was taken that the Sattva Group will remain the major stakeholder and controller and have control in the developer entity and will not create any lien on the land or the flats of the members. He submits that in the said meeting, a detailed discussion had taken place as regards the pre-qualification of Defendant No. 3 at the time of tender, the views expressed by the consultants, the ED case against the parent company, and Defendant No. 3's Mumbai project status. He submits that after a detailed deliberation, a total of 133 members present in the meeting, including those attending virtually, gave their assent to the proposal of appointing Defendant No. 3 as the preferred developer. He submits that the conclusion was reconsidered and the proposal submitted by some of the members of obtaining further opinion of independent experts came to be rejected, and approval was granted to the Managing Committee of the Society to take further decisions or steps in relation to further negotiations with the developer. He submits that the Plaintiffs were present for the said meeting and have not challenged the resolutions.

32. He would further submit that the LOI came to be issued, which includes the condition of a corporate guarantee-cum-performance guarantee from the parent company, SDPL, which is to remain valid and enforceable from the date of execution of the Development

Agreement until the completion of the project. He submits that a specific condition has been incorporated in the LOI that SDPL and Mr. Vijay Agarwal and his family shall maintain a minimum 75% equity stake in Defendant No. 3 which secures the financial creditworthiness of Defendant No. 3. He submits that in the meeting held on 7th December 2025, the resolution was passed appointing the Defendant No. 3 as developer, which was approved by 194 members present physically and 46 members present online. In support, he relies on the following decisions:

i. ***Rajesh Mishra & Beena R. Mishra v. Shree Ahuja Properties (P) Ltd.***[4]***,***

ii. ***Nirmala A. Pillai & Ors. v. Shubham Builders***[5]

iii. ***New Horizons Ltd. & Anr. v. Union of India & Ors.***[6]

iv. ***Vodafone International Holdings BV v. Union of India & Anr.***[7]

33. Mr. Tamboly, learned counsel appearing for PMC in Appeal from Order No. 19074 of 2026 would submit that the resolution approving the appointment of PMC, has not been challenged. He submits that the challenge in the present case is to the tender floated by Defendant Nos. 1 and 2 and there are no pleadings *qua* the PMC and despite thereof, the Trial Court has held that the appointment of PMC is illegal.

4 2021 SCC OnLine Bom 2945
5 CAAL/12654/2024 dated 07/05/2024 (Bom.)
6 (1995) 1 SCC 478
7 (2012) 6 SCC 613

He would further point out that the pleading in the plaint is that the suit has been filed for enforcement and protection of the Plaintiffs' statutory rights under Section 79-A of the Maharashtra Co-operative Societies Act, 1960 (`**MCS Act'),** which have been held to be directory. He submits that as the final relief sought was in the context of the tender being illegal, no interim relief could be granted *qua* the appointment of PMC.

34. Mr. Khandeparkar, learned counsel appearing for the Plaintiffs, submits that before the Trial Court, after the hearing of the Plaintiffs was concluded, the resolutions were produced by the developer, which did not form part of the pleading. He submits that the Society does not refer to this resolution, and the resolution appears to be a forged and fabricated document, as the resolution starts with page No. 3 and there are no preceding pages annexed to the resolution. He would further point out that the Trial Court has, therefore, rightly not taken note of these documents. He submits that the resolutions of the Society, if any, ought to have been produced by the Society and not by the developer and cannot be considered in support of appointment of Defendant No 3.

35. He has taken this Court through the essential tender conditions, which require the preferred developer to have completed at least three projects in MMR in the last 6 years, construction worth Rs. 500

crores and a net worth of minimum Rs. 800 crores. He would submit that 20 developers had purchased the tender documents by 9th of November, 2024, and 9 developers had submitted their bids. He would point out that the tender document defines the developer and tenderer, which is an individual entity. He submits that Clause (8A), specifically providing for the pre-qualification criteria, excludes joint venture agreements. He submits that the clause in the tender provides that if the tenderer does not disclose the full name and address of all its partners, directors in case of a company, and joint venture agreements in case of a Special Purpose Vehicle, which is the case where there are more than two entities, the tender is liable to be rejected. He would further point out that there is a restriction under the tender from transferring the rights under the contract and against assignment.

36. He submits that the general conditions of development under the tender provide that a developer can execute the project only through its parent company. He would further point out Form No. AOC-4, which is the form filed with the Registrar of Companies **(`ROC')** for filing financial statements and other documents, and would point out that the same shows the date of incorporation is 16th November, 2022, and that no consolidated financial statements are prepared. He would further point out that the balance sheet shows a negative worth.

He submits that with such financial credentials, the Defendant No. 3 did not meet the tender criteria and, therefore, could not be appointed as the preferred developer. He has taken this Court through the subsequent forms filed with the ROC, which also show that the business activity is shown as zero and the net worth is also zero. He would further point out the directors of the Company and would submit that none of the directors have any participation in the parent company. He submits that the Defendant No 3 cannot qualify as subsidiary company of SDPL as per the Companies Act. He would further point out that it was specifically pleaded about the negative financial status of the Defendant No. 3 Company in the suit. He submits that the reply of the Defendant No. 3 is that it is a subsidiary of SDPL, is factually incorrect and no documents have been produced to substantiate the same. He would further point out the affidavit in rejoinder, where it was specifically pleaded that SDPL is not a builder and, therefore, there is no question of the corporate guarantee being executed by SDPL.

37. He would further point out the draft Re-development Agreement, which was to be executed not only with the Defendant No. 3, but also with SDPL, and the covenant by SDPL for observing all obligations. He would submit that the tender documents do not provide for such a course to be adopted. He would further submit that the resolution on which reliance was placed by the Defendant No. 3 states that the reason as to why SDPL did not bid in the tender is that the registered office of Sattva Developers Pvt Ltd is in Bengaluru and not in Mumbai, and, would be ineligible, which reason is unacceptable.

38. He would further submit that the 2016 Notification provided for the measures to be taken by the State Government in respect of the land falling under ESZ. He submits that it is only on 18th of September, 2025, that the Defendant No. 1 issued a circular to its members claiming that the suit land falls in ESZ-II, and it would not be possible to construct a completely separate commercial tower. He submits that by virtue of the same, they curtailed the pool of bidders. He would further submit that a novel no-regret letter procedure was adopted by the Defendant No. 3 in the SGBM of 21st of September, 2025, by which only 4 shortlisted developers were granted 48 hours to submit their final revised bids and the remaining bidders were completely excluded from any fair opportunity.

39. He would submit that around 82 members have approached the co-operative Court, and some of the Managing Committee members have resigned on the same issue. He would submit that in the SGBM of 28th September, 2025, no questions were permitted to be raised, and 82 members of the Society had written a protest letter to the Society on 9th November 2025. He submits that on 23rd November, 2025, the

Society's financial advisor for the first time disclosed to the members that while evaluating Defendant No. 3's credentials, the credentials of the Sattva Group of Companies were taken into consideration, which was accepted by the General Body.

40. Mr. Khandeparkar would submit that the additional affidavit filed by the Plaintiff, annexing the Society's new Circular dated 23rd March 2026, would show that the Managing Committee had suggested conversion of Society's land into ESZ-I, thereby permitting commercial construction, which was earlier not possible in ESZ-II, as per its own circular dated 18th September 2025. He would submit that the Plaintiffs have willingly supported the redevelopment till disclosure circular dated 18th September 2025, thereby stating inapplicability of Regulation 33(19) and calling for voting within four days thereafter.

41. He would further point out that the disclosure Circular dated 18th September 2025, when read with the Circular of 23rd March 2026, shows that even as per the Managing Committee, it was not permissible to contemplate redevelopment under Regulation 33(19) due to ESZ-II category, and, therefore, the embargo of ESZ-II category to Society's land is an admitted position. He submits that despite thereof, the tender was proceeded primarily under Regulation 33(19).

42. He would point out that firstly it was informed that it would not be possible to do the redevelopment by construction of independent commercial building, and, secondly, objections would be raised with the Government. He submits that this sudden disclosure is falsified on account of the fact that the presentation of comparative chart of various schemes shows that the senior and registered architect had left the column of Regulation 33(19) completely blank, and it is impossible that the Managing Committee did not notice the omission of Regulation 33(19) by the senior architect. He would submit that, secondly, the Minutes of SGBM held on 21st September 2025 clearly demonstrate that this sub-classification of ESZ category started in 2016 and its completion was within two years, and, therefore, it cannot be said by the Defendant No 1 and the PMC's, which have vast experience and background of Building Proposal Department of BMC, were unaware of such ESZ categorization process, which would be completed within two years in 2018. He would submit that, therefore, it cannot be accepted that the process between 2016 to 2018 was not in contemplation of the PMCs before going in for comparative charts of proposal, feasibility report, and tender.

43. He submits that the Defendant No 1 ought to have gone for re-bidding or could have issued an addendum to all bidders in terms of Clause No. 25 of Section 3 of the tender. He submits that the said situation has damaged the prospects of bids of the tender of prime land and only nine bids were received. He submits that the categorization of ESZ-II permits construction of separate commercial building covering about 60% of the land, enhancing the commercial potential of the entire project, and the whole process is now grossly prejudicial to the members of the Society and discriminatory towards most of the potential bidders.

44. Mr. Naphade, learned counsel appearing for the Respondent No. 3 in Appeal from Order (Lodging) No.19074 of 2026, would submit that despite the resolution passed in the SGBM held on 9th October, 2022 to adhere to G.R. of 4th July 2019, the same has not been complied with. He submits that the minutes of the meeting of 17th December, 2023 record that Sandeep Isore, i.e. Defendant No. 6, has assured that in the event the redevelopment work is allotted, he will personally supervise the same. He would further point out that the said Sandeep Isore represented himself as qualified architect working on the Bhendi Bazaar Cluster Redevelopment Project, whereas the website extract of the said redevelopment project shows a different principal architect and associate architect, and there is no mention of Sandeep Isore.

45. He would further point out the minutes of the meeting of 6th September, 2025, in which a question was raised on the appointment of PMC. He would submit that the Defendant No. 1 Society has entered into an agreement with the PMC and M/s. Planet E Consulting, which is not as per the terms of the tender. He submits that the Defendant No.

1 had specifically resolved to take legal advice as the Defendant No. 2, instead of giving its financials, gave the financials of the group Company.

46. Mr. Matkar, learned counsel appearing for Respondent Nos. 1 and 2 in Appeal from Order No. 18996 of 2026 points out that in the SGBM held on 21st of September 2025, after the ESZ revelation, the Defendant No. 6, explained the provisions relating to ESZ and that the Society's plot falls in ESZ-II. He would further point out that though Regulation 33(19) was not permissible in ESZ-II, the tender was issued for 33(19). He submits that the Defendant No. 1 Society was aware of the said position as many of the members are retired officers of MCGM. He would point out that the Plaintiffs had appointed experts, and therefore, now cannot be heard to say that they were not aware about the Society's plot falling in ESZ-II.

47. In rejoinder, Mr. Tulzapurkar submits that the draft Notification was finalized on 9th September 2025, and immediately on 18th September 2025, the Defendant No. 3 issued a circular to its members about the plot falling in ESZ-II. He submits that the tender was issued on 13th October 2024, and therefore, there was no question of disclosure of ESZ-I or ESZ-II. He submits that the final notification under ESZ was issued on 20th March 2026.

48. He submits that by the first LOI which was issued, the Society had resolved the development under 33(9), and thereafter there was a revised LOI issued on 27th November, 2025, incorporating a corporate guarantee in order to secure the project. He submits that SDPL, which was the parent company of Defendant No. 3, could not have submitted the bid as the tender bid was restricted to developers who had their registered office in Thane and Mumbai. He submits that under the draft Development Agreement, the parent company has agreed to provide the financial support and strength to the Defendant No. 3, and has also undertaken that in the event of default by the developer, the confirming party shall step into the place and stead of the developer. He submits that the contentions raised by Mr. Khandeparkar as regards the definitions of subsidiary company and holding company do not require a strict interpretation in a project of this nature. He submits that the tender was prepared under the guidance of the PMC and was approved by the Society. He submits that the Society has taken all these decisions through the SGBM. He would further submit that the submission that the minutes were tendered after the conclusion of the Plaintiffs' hearing can also harm the case of the Plaintiffs, as the Plaintiffs, being members of the Society, were aware of the resolutions and despite that, did not produce the same. He would further submit that there is no case of the Plaintiffs that the minutes are fabricated, and only a technical objection has been raised.

49. Mr. Naphade would interject and would submit that in the rejoinder it is specifically stated that the minutes of the meeting are fabricated.

50. Mr. Andhyarujina, in rejoinder, would submit that the case of SDPL not being the holding company of Defendant No. 3 is not their pleaded case and was not argued before the Trial Court. He submits that the Plaintiffs were aware of the minutes of the meeting of 23rd November 2025, and when the same were tendered before the Trial Court, no objection was taken, and the Roznama records the same. He submits that the minutes were duly received by them on 2nd January 2026, and the plaint had been filed on 7th February 2026 and despite the contention now raised that the minutes are fabricated, there is no explanation as to why the same was not made part of the plaint.

51. He would further submit that the case of the Plaintiffs was that the five-year registration criteria and financial criteria were not fulfilled by Defendant No. 3 and financials were shown by collecting figures of sister concerns and so-called associates and not that SDPL was not the parent company of Defendant No. 3. He submits that the Form No. AOC-4 does not require any information to be given about the holding company. He submits that the consolidated financials have to be filed by the parent company and not by the holding company. He submits that in the affidavit in reply, it is repeated and reiterated that SDPL is the parent company and despite thereof, in the rejoinder, there is no challenge. He submits that the resolution of 23rd November, 2025, puts the controversy to rest as everything has been considered by the SGBM and an additional safeguard is also incorporated.

52. Mr. Shanay Shah, learned counsel appearing for the Appellant in Appeal from Order (Lodging) No. 19074 of 2026, would submit that the impugned order does not give any reasons for grant of prayer clause (B) as regards the appointment of the PMC. He submits that the Respondent Nos. 1 and 2, being individual members, can speak only through Respondent No. 3, and the appointment of PMC is valid, binding, and subsisting till date and is therefore binding on Plaintiffs. He submits that neither the 2023 resolution nor the agreement dated 7th July, 2025, executed by the PMC and the Society were challenged by the Plaintiffs, and therefore, the prayer ought not to have been granted. He would further submit that the 2019 G.R. is neither mandatory nor a concrete policy, and it was perfectly open to the Society under the resolutions passed in the SGBM to deviate from the same. He would submit that the challenge to the appointment of the PMC on the basis of the G.R. of 2019 is neither the pleaded case nor were any submissions canvassed before the Trial Court. He submits that the Defendant No. 3, by an email of 31st December, 2023, to Sandeep Isore, confirmed the PMC's appointment, and hence, is in compliance with Directive No. 13 of the 2019 G.R., and subsequent thereto, the agreement dated 7th July 2025 was executed. He would further submit that in the SGBM held on 17th December 2023, it was stated that Mr. Sandeep Isore is serving as liasoning architect and not the principal architect. He submits that during the SGBM of 20th July 2025, certain issues relating to the PMC were discussed, pursuant to which legal advice was sought. He submits that the annual turnover of PMC is not an eligibility criterion for the PMC's appointment. He submits that the apprehensions, whether expressed, did not result in ousting the PMC.

53. He submits that the Plaintiff's case is based on Sandeep Isore being added to the agreement dated 7th July, 2025. He submits that Sandeep Isore is his associate, and the agreement was entered into after the Society approved the same. He submits that there is no question of grant of interim relief as the PMC's appointment was not in question. He would further point out that the Trial Court has, on the basis of the objections raised in the SGBM held on 20th July, 2025, held that there are serious objections raised to the appointment of PMC without considering that there is no resolution passed terminating the appointment of PMC.

54. After the conclusion of arguments, the parties tendered the written submissions. The learned counsel for the parties again argued on the contents of the written submissions tendered by the other party alleging that documents not part of the record were being tendered and submissions not canvassed were included. This Court has noted the arguments canvassed during the hearing and has adjudicated the dispute accordingly.

55. Mr. Khandeparkar has restricted the grounds for seeking injunctive reliefs only on the issue of ESZ and the financial credibility of Defendant No. 3.

56. On the issue of ESZ, the conspectus of Plaintiff's case is of suppression of the fact of the suit land falling in ESZ II category at the time of issuing tender, invitation of bids and permitting consideration of development under Regulation 33(19), which is impermissible in ESZ II. To substantiate the case of suppression, reliance is placed on the presentation of comparative chart, where the senior architect left column of Regulation 33(19) blank imputing knowledge to the managing committee of the suit land falling in ESZ II and the circular dated 18th September, 2025 of Defendant No 1 intimating the members about the draft zonal plan. Based on this allegation, the contention is that pool of developers have been curtailed and that nine bidders were not informed about application for conversion from ESZ II to ESZ I.

57. The pleading in paragraph 7(A) of the plaint is as under:

" Under the DCR-1991, the Suit Land was shown as a "No Development Zone (NDZ)" as it falls near the sensitive area of the "Aarey Colony". Later on it was removed from the "No Development Zone (NDZ)" and now it is included in "R Zone". However, in the year 2016, the Central Government included the present land in Eco Sensitive Zone-II (ESZ-II) and now it is obligatory that the present land continues to remain in the ESZ (Eco Sensitive Zone II). Due to the said ESZ II classification of the suit land, there are certain restrictions which do not permit the construction of a completely separate commercial tower, commercial offices, mall, cinema hall or any similar standalone commercial building on the Suit Land. Hereto annexed and marked as Exhibit "K-1" is the copy of the Circular dated 18.09.2025 issued by the Defendant No 1 declaring that the land of the Society falls under "Eco-SensitivieZone-II) (ESZ-II)"

58. The tender came to be floated on 13th October, 2024. Annexure 4 of tender specifically describes the plot as falling in Sanjay Gandhi National Park Eco-Sensitive Zone under Notification dated 5th December, 2016, and that ESZ NOC will be required. There is no suppression in the tender about the location of the subject land being in Eco Sensitive Zone. The tender conditions were approved by majority of members and therefore the members and by reason of disclosure in the tender even the bidders were aware of the location of the subject land in Eco Sensitive Zone.

59. Perusal of the notification dated 5th December, 2016 issued by MOEF would indicate that the notification sets out the extent and boundaries of ESZ, which includes the suit land. Clause 2 of the ESZ Notification provides for preparation of a Zonal Master Plan for the ESZ within a period of two years for regulating development in the ESZ. There is no clause in the notification classifying the lands falling within ESZ as ESZ I, II or otherwise. Item No 11 of Clause 4 of the notification under the heading "Regulated Activities" lists out Construction activities and provides that the construction activities shall be permitted within the ESZ as per the provisions of the approved Development Plan and other applications rules and regulations under the Maharashtra Regional and Town Planning Act.

60. In the absence of the final zonal plan prepared under the notification of 2016, the development was permissible as per the applicable development regulations including Regulation 33(19). The Defendants therefore rightly called for bids giving the option of development under Regulation 33(19) and Regulations other than 33(19).

61. It is only on 9th September, 2025, that the plan, which was draft zonal plan, came to be published in which the subject land was classified as ESZ II and objections and suggestions to the draft plan were invited. Therefore even on 9th September, 2025, the classification of the suit land as ESZ II was a proposed classification. It is only on 23rd March, 2026, during the pendency of the proceedings before the Trial Court, that the Defendant No 1 Society informed the members that the suit land has been categorised as ESZ-I.

62. The Plaintiffs rushed to the Court under an erroneous belief that under the notification of 2016 itself, the suit land was categorised as ESZ II, which was suppressed and fraud was played on the members and the developers by deliberating on development under Regulation 33(19). There is no material placed by the Plaintiffs on record, on the basis of which, it can be *prima facie* demonstrated that at the time of submission of feasibility report by PMC, publishing of tender and bidding by developers the suit plot was categorised as ESZ II and hence Regulation 33(19) was impermissible. It is far fetched to accept that because the Senior Architect Anil Patil had left the column of Regulation 33(19) blank in the comparative chart produced with communication dated 10th August, 2023, the suit land was categorised as ESZ II and was within the knowledge of the managing committee. The fact that six reputed developers out of the nine developers had submitted offers for both Regulation 33(19) as well as Regulation 33(9) *prima facie* shows that at the time of submission of bids, there was no categorisation of the suit land as ESZ II. The feasibility reports and comparative charts were discussed in detail in the SGBM and no questions were put to the Senior Architect Anil Patil on the blank in column of Regulation 33(19).

63. It is claimed that the allotment of the bid in favour of Defendant No. 3 as the highest bidder for the project is under Regulation 33(19), which is completely barred in ESZ-II. The last date for submission of the bids was 15th December, 2024, and it is only on 9th September, 2025 that the plot was categorized as ESZ-II in the draft zonal plan. The Plaintiff's case of the suit land being categorised as ESZ II is based on the Defendant No 1's circular dated 18th September, 2025 informing the members that their plot has been classified as ESZ II. The circular makes a clear reference to the plan being draft plan and without verifying as to whether the suit land has been finally categorised as ESZ II and the date on which it was so categorised, the Plaintiffs have assumed that the categorisation took place under the notification of 2016 and there is suppression.

64. The tender invited bids and the pre-qualification criteria required that a minimum annual sale of a tenderer shall not be less than Rs. 500 crores in the last 5 years, and the minimum consolidated net worth of the tenderer should not be less than Rs. 800 crores, which shows that the bids could have been submitted only by reputed, renowned developers having expertise in the construction activities. *Prima facie,* it is difficult to accept that developers of such repute would be unaware of the development regulations permissible in ESZ or that draft zonal plan is under contemplation.

65. The ESZ Notification of 2016 provides for preparation of zonal plan within a period of two years and till the year 2025, there was not even a draft zonal plan published. Upon the final zonal plan being notified by the Central Government on 20th March, 2026, the suit land was classified as ESZ I with the consequence that commercial development and reconstruction of land is permissible, which was the position existing even in the year 2016. There was no necessity of inviting fresh bids or informing bidders about the application for conversion as there was never any final classification of subject land as ESZ II. The re-development at the inception of the process permitted development under Regulation 33(19), and the intervening event of publication of draft zonal plan did not change the situation. It is also unacceptable that with every subsequent change in regulatory regime, the Society should commence the re-development process *de-novo*.

66. *Prima facie*, there is no case of suppression made out, as after the circular of 18th September, 2025, in the SGBM held on 21st September, 2025, the members were apprised of the draft plan classifying the subject land as ESZ II and it was informed that restrictions apply primarily to commercial activities. The majority of members resolved that the shortlisted developers shall be granted period of 48 hours to submit their final revised offers in sealed envelopers. In the SGBM held on 28th September, 2025, revised commercial offers were opened and were explained to the members. The offers were then put to vote and the Defendant No 3 was selected as preferred developers by the majority of members.

67. The members of the Defendant No 1 were apprised of the comparative benefits as the shortlisted PMCs submitted the feasibility report in the SGBM held on 29th/30th July, 2023 giving the brief presentation about the comparative benefits under the relevant development regulations 33(7), 33(9), 33(11), and 33(19). The tender conditions were approved by the majority of the members in the meeting held on 13th October, 2024 which deliberated on Regulation 33(19) and regulations other than Regulation 33(9). The bids were submitted by nine developers and out of them, six developers submitted offers under Regulation 33(9) and Regulation 33(19), whereas three developers submitted offers only under DCR 33(9). In the SGBM held on 27th April, 2025, the commercial proposals submitted by the developers under Regulation 33(19) and 33(9) were discussed by the members of Defendant No 1.

68. The LOI dated 12th October, 2025 was thereafter issued, and the redevelopment was proposed under Regulation 33(9). One of the conditions of the LOI was to provide a corporate guarantee from its parent company, M/s. Sattva Developers Private Limited. The minutes of the meeting would indicate that the members present were given a detailed presentation of the comparative offers submitted by the developers shortlisted, and by a democratic process of voting by ballot papers, the Defendant No. 3 was elected as the preferred developer. Thereafter, there was another meeting which was held to discuss the opinion received from the consultants about the involvement of the developer in the offence of money laundering. The minutes of the meeting indicate that one day prior to the meeting in which the Defendant No. 3 was elected as the preferred developer, certain members of the Society had informed that the Defendant No. 3 may not be technically qualified as its net worth was negative. A detailed discussion was held, and the Chairman had provided a clarification with regard to the corporate guarantee, and that the Defendant No. 3 would not be creating any encumbrance on the land or the area of the Society. After these detailed discussions on the issue as to whether the appointment of Defendant No. 3 ought to be treated as disqualified, a total of 133 members present at the meeting resolved that the Defendant No. 3 had complied with the tender qualification criteria and tender guidelines, and that the entire process had been conducted in a transparent manner.

69. An objection has been taken by Mr. Khandeparkar to the resolutions which were handed over in the trial court proceedings after the hearing was held, and that there is no pleading to that effect. The resolutions are part of the record and would demonstrate that every aspect was presented for consideration of the members of Defendant No. 1 Society. It cannot be said that the Plaintiffs were unaware of the said resolutions or were taken by surprise by the production of the said resolutions. A dispute is sought to be raised that these minutes of the meeting are fabricated. The resolution of 23rd November, 2025 were circulated on 2nd January, 2026 and Mr. Naphade, would, submit that in the rejoinder a specific case was set up that the resolutions were fabricated. As it is not disputed that the minutes of the meeting were circulated on 2nd January 2026, no explanation is given for absence of pleading about the resolution being fabricated. There is no explanation for failure to challenge the resolutions in the Co-operative Court.

70. The contention that the pool of developers was restricted is premised on the subject land being categorised as ESZ II, which is an erroneous assumption as the subject land was available for development as per the applicable development regulations. As there is no material to prima facie demonstrate the classification of suit land as ESZ II at the time of publishing tender and inviting bids, which issue is now set to rest by the final zonal plan in March, 2026, the question of ESZ II classification does not arise for trial.

71. Upon perusal of the detailed minutes of meeting produced on record, it is evident that all aspects including the draft zonal plan were discussed and deliberated in detail and the resolutions were passed with approval of majority of members. The majority of members in their collective wisdom decided to accept the no regret procedure and permitted the short listed developers to submit revised offers. The decision taken by the majority cannot be vitiated for the reason that they did not elect the option of going for re-bidding or did not issue an addendum. It is the collective decision of the majority of members, which would bind the minority members of the Society. It was open for the majority to decide the course to be adopted in best interest of the Society, which has been decided and deserves no interference.

72. The appointment of Defendant No 3 is challenged on the ground of failure to meet the qualification criteria. Going back to the conditions of the tender, Part I containing Section 1 invites sealed tenders from developers having registered office in Mumbai/Thane. Section 2(pp) defines "Tenderer" to mean any entity/developer who submits a bid in pursuance to this tender. Clause 8 of Section 3 sets out the pre-qualification criteria as under:

> **"8. PRE-QUALIFICATION CRITERIA : -**
>
> A. Bids from Proprietorship Firm. Hindu Undivided Family. Trusts, Co-operative Societies. AOP's or any form of IV other unregistered firms or unincorporated entities shall not be considered.
>
> B. The Tenderer should have completed and procured occupation certificate from the planning authority for at least **three (3) residential / residential cum commercial projects in last 6 (six) years** ending on 31st March 2024 with the following parameter -
>
> (i) At least **one of such residential / residential cum commercial projects** should be developed by consumption of a minimum **FSI of not less than 60,000 SQM.** The Tenderer should submit the necessary evidence of the same.
>
> (ii) The construction cost of each of such residential / residential cum commercial projects should have been minimum **Rs.500,00,00,000/- Only (Rupees Five Hundred Crores Only).**
>
> **The Tenderer shall submit the necessary documentary evidence of the above.**

> C. The minimum annual sales of the Tenderer shall not be less than **Rs.500,00,00,000/-** (Rupees Five Hundred Crores Only) in the last 5 years ending 31/03/2024. The Tenderer shall submit the necessary documentary evidence of the above.
>
> D. The minimum consolidated net worth of the Tenderer should not be less than Rs. **800,00,00,000/- Only [Rupees Eight Hundred Crores Only].**
>
> E. The Tenderer shall submit the necessary documentary evidence for the above."

73. Section 4 deals with special conditions of development and Clause (ggg) prohibits the developer from transferring benefits of the tender or development proposal or development agreement to any other company, any other third party or any other entity. Clause (sss) prohibits assignment/transfer/sub-contract to another developer.

74. Clause (4) of Section 6 of the General Conditions of Development provided that the developer can execute the project only through its parent company and cannot assign or sublet the project or enter into a joint venture or partnership with any other developer/third party before or after their selection by the Society.

75. The tender conditions permitted the developer to execute the project through its parent company. The pre-qualification criteria provided that the tenderer shall submit documentary evidence of annual sales of the tenderer, which shall not be less than Rs. 500 crores in the last 5 years ending 31st March 2024, and the minimum consolidated net worth of the tenderer shall not be less than Rs. 800

crores. The tender document defines a tenderer to mean any entity/developer who submits its bid in pursuance of this tender. The General Conditions of Development permitting the developer to execute the project through its parent company indicates that the pre-qualification criteria can be met by the parent company, which is also substantiated by the requirement of "Consolidated net worth".

76. In the SGBM held on 23rd November, 2025, the issue of involvement of Defendant No 3 and its Director in money laundering offence was discussed. The minutes record the discussion about the Defendant No 3 not being technically qualified as its net worth was in the negative. It was clarified that the principal promoters of the company are (1) Sattva Real Estate (the flagship company established in 1976) and (2) LLP's of the Agarwal family. It was also clarified that no revenue has been recorded of the said company as of date and as a group entity, the group's sales and net worth have been taken into consideration. It was suggested that as measure of precaution and to ensure adequate security, while finalising the definitive documents with the shortlisted developer, a corporate guarantee of the principal holding company would be obtained. The comparative statements of the four developers were presented and it was noticed that Defendant No 3 had offered the highest percentage of land allocation and that the proposal submitted was higher. The contents of the draft LOI as regards the corporate guarantee was read out to the members. The minutes record that one of the members Shri Paresh Kokate made a presentation on Defendant No 3 not conforming to the tender conditions and the disagreement with the written opinion of the consultants. The members considered Clause 4 of Section 6 of tender which permitted the project to be executed through the parent company. It was also clarified that the registered office of Sattva Developers was in Bengaluru and not Mumbai and accordingly the tender has been submitted in name of Defendant No 3, which is subsidiary company of Sattva Group. It was clarified that during the financial year 2024-2025 more than 80% shareholding in Defendant No 3 is held by Sattva Group, Mr. Vijay Agarwal.

77. A total of 133 members present in the meeting signified their assent to the committee's proposal that while appointing Defendant No 3 as preferred developer, there was due compliance of tender qualification criteria and tender guidelines. The other agenda of seeking opinion of two or more experts as regards the eligibility of Defendant No 3 was rejected by the majority. The minutes assumes significance as the contention of Mr. Khandeparkar as regards the Defendant No 3 not meeting the qualification criteria was discussed threadbare in the SGBM and a conscious decision was taken by the majority of members present and voting that Defendant No 3 satisfied the tender qualification. The LOI containing the clause of corporate guarantee was in accordance with the decision taken in the SGBM.

78. In the plaint, there is no pleading about SDPL not being the parent company of the Defendant No 3 and the only pleading is that the Defendant No 3 does not meet the registration and financial criteria and that financials of sister concerns was produced. Before this Court, extensive arguments are canvassed by Mr. Khandepakar on the definition of a holding company and subsidiary company under the Companies Act to contend that SDPL was not the holding company of Defendant No 3. At the appellate stage, for the first time a new case cannot be permitted to be canvassed. Mr. Andhyarujina has pointed out that in the reply affidavit there are specific pleadings about SDPL being the parent company and there is no rejoinder in rebuttal.

79. The tender was issued by the Defendant No 1 and the terms of the tender were interpreted by the majority of members to accept the financial creditworthiness of parent company as satisfying the qualification criteria. In the SGBM, the majority of members approved the draft LOI which incorporated the corporate guarantee of SDPL. Even considering the arguments of Mr. Khandeparkar, the submission of Mr. Tulzapurkar that there cannot be any strict interpretation of the holding company and the subsidiary company has substance. What is required to be considered is whether there are sufficient safeguards in place in order to ensure that the development is not impeded and whether it is the decision of the majority of members. The draft Development Agreement also incorporates the parent company as a confirming party, with acceptance of the liability of the Defendant No. 3 in the event of any default. Such course has been approved by the majority of members and the resolutions bind the Plaintiffs.

80. The members of the Defendant No. 1 Society have, in their collective wisdom, taken a conscious decision permitting the Defendant No. 3 to carry out the work of redevelopment. Even assuming, without accepting, that there has been any deviation from the tender condition, the tender, has been floated by the Defendant No. 1 Society, and with the approval of majority of members and in consonance with the tender condition permitted the Defendant No 3 to execute the development through its parent company, The pre-qualification criteria required that the consolidated net worth of the tenderer shall not be less than Rs. 800 crores, which has been accepted by the majority of members to mean the consolidated net worth of the parent company along with its subsidiary companies. The project, which was to be executed by the Defendant No. 3, was backed by the parent company, which was approved by the SGBM after detailed discussion.

81. One of the contentions raised is that the project should have been bid by the parent company instead of the Defendant No. 3, which is a Special Purpose Vehicle of the parent company. Mr. Tulzapurkar has pointed out the condition in the tender which invited tenders from experienced and reputed builders and developers having registered offices in Mumbai/Thane for carrying out the work of redevelopment. It is because of this reason that, in the meeting held to discuss the Defendant No. 3's eligibility, it was pointed out to the members of the Defendant No. 3 Company that the registered office of the parent company is in Bengaluru, and therefore the parent company could not have bid for the project.

82. In the case of ***Bengal Secretariat co-operative Land Mortgage Bank & Housing Society Limited*** (*supra*), the Hon'ble Apex Court held, in paragraphs 53, 54 and 55, as under:

> "53. It is not in dispute that the General Body of the Appellant society, which is supreme, has taken up a conscious decision to redevelop the administrative building. The General Body of the Appellant Society has also resolved to appoint the Hi-Rise as the developer. Those decisions having not been challenged at all, the Respondent No. 1 being a member of the Appellant Society is bound by the said decisions. The General Body of the Appellant Society has approved the terms and conditions of the development agreement by overwhelming majority.
>
> Merely because the terms and conditions of the development agreement are not acceptable to the Respondent No. 1, who could be said to be in minuscule minority cannot be the basis of not to abide by the decision of the overwhelming majority of the General Body of the Appellant Society. The redevelopment of the property is necessitated in view of the fact that the building is in a dilapidated condition with passage of time. The redevelopment thus, in our view, would be a requirement and a necessity and cannot be termed as business. The Appellant Society in such circumstances did not even require to carry out

any amendment to the bye-laws or to include the "redevelopment of the buildings" as one of the objects of the Society before taking any decision to redevelop its property.

54. By now it is well established position that once a person becomes a member of the Co-operative Society, he loses his individuality with the Society and he has no independent rights except those given to him by the statute and bye-laws. The member has to speak through the Society or rather the Society alone can act and speaks for him qua the rights and duties of the Society as a body (see : Daman Singh v. State of Punjab, reported in (1985) 2 SCC 670 : AIR 1985 SC 973). This view has been followed in the subsequent decision of this Court in the case of State of U.P v. Chheoki Employees Co-operative Society Ltd., reported in (1997) 3 SCC 681 : AIR 1997 SC 1413. In this decision, this Court further observed that the member of a Society has no independent right qua the Society and it is the Society that is entitled to represent as the corporate aggregate. This Court also observed that the stream cannot rise higher than the source. Suffice it to observe that so long as the Resolutions passed by the General Body of the Appellant Society are in force and not overturned by a forum of competent jurisdiction, the said decisions would bind the Respondent No. 1. He cannot be permitted to take a stand alone position but is bound by the majority decision of the General Body. Notably, the Respondent No. 1 has not challenged the Resolutions passed by the General Body of the Appellant Society to redevelop the property and more so, to appoint the Hi-Rise as the Developer to give him all the redevelopment rights.

55. It was also argued on behalf of the Respondent No. 1 that the property is in a good condition and there is no need to redevelop the existing building. In the first place, as noted earlier, the decision of the General Body of the Society to redevelop the subject property has not been challenged at all. Besides, no provision in the Co-operative Societies Act or the rules or any other legal provision has been brought to our notice which would curtail the right of the Society to redevelop the property when the General Body of the Society intends to do so. Essentially, that is the commercial wisdom of the General Body of the Society. It is not open to the Court to sit over the said wisdom of the General Body as an Appellate Authority. Merely because one single member in minority disapproves of the decision, that cannot be the basis to negate the decision of the General Body, unless it is shown that the decision was the product of fraud or misrepresentation or was opposed to some statutory prohibition. That is not the grievance made before us. In the present case, the General Body took a conscious decision after due deliberations for many years to redevelop its property. Even with regard to the appointment of the "Hi-Rise" as the Developer, the record shows that it was decided by the General

> Body of the Society after examining the relative merits of the proposals received from the developers."

83. *Prima facie* the decision of majority of members accepts the financial creditworthiness of the parent company and resultantly the Defendant No 3. The appointment of the Defendant No 3 as preferred developer was taken by the majority of members upon due deliberation of the issues as regards its negative net worth, the consideration of the parent company creditworthiness and informed decision was taken in the SGBM to incorporate the corporate guarantee of the parent company. These resolutions are subsisting and have not been overturned by competent court and would therefore bind the Plaintiffs. There is no challenge to the resolutions and the validity of resolutions would not be an issue at trial requiring investigation. Consequently, the issues raised as regards the ESZ II and satisfaction of pre-qualification by the Defendant No 3 would not be an issue requiring trial till the subsistence of resolutions.. This Court cannot substitute its view for the collective wisdom of majority of members, who have taken a conscious decision to proceed with the redevelopment project along with the Defendant No. 3.

84. In the case of ***Rajesh Mishra & Beena R. Mishra*** (supra), the

Hon'ble Division Bench of this Court, in the context of re-development project noted the contention *qua* the financial capacity of the developer and held that the developer enjoys the support of the society and the resolution of the society in that regard have not been challenged. It opined that it is not for the Court to go behind the commercial wisdom of the society, merely because some members in the minority disapprove of the decision of the general body, unless it is shown that the decision was the product of fraud or misrepresentation or opposed to some statutory prohibition.

85. Dealing next with the injunctive reliefs granted against the PMC, the final relief sought in the plaint was injunction against the Defendants from acting upon the tender, and the ancillary relief was sought to restrain the Defendant Nos. 2, 4, 5 and 6 from acting as the project consultants. In the plaint, the pleading to challenge the appointment of the PMC is that in the meeting of 20th July, 2025, questions were raised regarding the selection, appointment, and conduct of the PMC, as the PMC, instead of providing the annual turnover of the Company, had provided the annual turnover of the group Company, and the decision was taken to obtain legal advice. It is pleaded that the directives have been issued under Section 79A of the MCS Act for redevelopment of the properties by way of the G.R. dated 4th July, 2019, which is mandatory. It has been held in the case of

Devendra Kumar Jain v. State of Maharashtra & Ors[8], and ***Vilas Vishnu & Another v. State of Maharashtra & Ors.***[9] that the 2019 G.R. is neither mandatory nor a concrete policy. In view of the said position, even assuming that there is a procedural lapse in appointment of the PMC, the same does not constitute a violation of the G.R. The resolution dated 20th July, 2025 is not shown to have culminated into ouster of the PMC by the SGBM. The ground that is pleaded in the plaint is that the PMC has submitted the annual turnover of the group company, which was not the qualification criteria for appointment of PMC.

86. The G.R. of 4th July 2019 provides standard guidelines in the context of redevelopment. Three quotations are required to be called for preparing project report from the PMC and the secretary of the Society is required to give an appointment letter to the Architect/PMC selected in the Special General Body Meeting within 30 days from the date of the meeting, and an agreement is required to be executed. The Plaintiff has not pleaded as to how the appointment of the PMC is contrary to the G.R. of 4th July 2019, and there is no challenge to the agreement of appointment executed with the PMC or the resolution of 2023 appointing the PMC. The agenda of the SGBM to be held on 29th /30th July 2023 records that an email was sent to 4 PMCs calling for

8 Writ Petition (L) No. 7356 of 2025.

9 Writ Petition No. 8732 of 2021

commercial proposals, which were submitted. The SGBM considered the commercial proposals received and, in view of the discrepancies in the commercial proposals, consulted an expert Dr. Vinod Bhanwari. There was visit to the redevelopment projects undertaken by Defendant No 2. The detailed information as regards the opinion of Dr. Bhanwari, discussions held with the PMC, and the site visits, etc., were presented to the members during the SGBM. The committee deliberated on various issues and resolved to appoint the Defendant No. 2 as the PMC of the Society.

87. The flaw in the appointment of the PMC is premised on the Defendant No 6 Sandeep Isore not being demonstrated to be the architect of the Bhendi Bazaar cluster redevelopment. The association of Sandeep Isore with the Bhendi Bazaar cluster redevelopment is stated to be of a laisoning architect and not principal architect or an associate architect. The association of Sandeep Isore was deliberated by the members in SGBM, and resolution was passed appointing the PMC.

88. In so far as the resolution of 20th July 2025 is concerned, legal advice was sought, and in August, 2025, the legal advisor opined that the selection and appointment of PMC was valid. In any event, the annual turnover of the PMC was never an eligibility criterion, and without any challenge either to the resolution or to the agreement, the interim relief of injunction against the Defendant No. 1 from acting as PMC could not have been granted. The aspect of the appointment of the PMC under the agreement dated 7th July, 2025 along with one Planet E Consultants as PMC is not the pleaded case, and the legal advice obtained by the Defendant No. 1 opined that the selection and appointment of the PMC with M/s Planet E Consultant was valid. The Defendant No 1 being author of the tender, is empowered to take decisions with approval of majority of members. It is required to be shown that the deviation, if any, by reason of appointing Planet E Consultants along with the PMC, is fraud or misrepresentation, and without any such case being demonstrated no injunction could have been granted, as there is no resolution of the SGBM ousting the PMC.

89. The Defendant No. 1 Society, through its majority of members, had entered into an agreement with the PMC, and the Trial Court, while granting the injunctive relief against the PMC, has not rendered any finding as to why the appointment of the PMC is flawed. The only observation is of the objections were raised in the SGBM of 20th July 2025. The consequence of the objections not having culminated in any ouster or termination of the PMC was not noticed by the Trial Court.

90. The discussion above would indicate that the Plaintiff has not brought any material on record to substantiate a prima facie case of the suit land being classified as ESZ II under the 2016 notification and resultantly no *prima facie* case of suppression or fraud or misrepresentation is made out requiring trial. In so far as the credit worthiness of the Defendant No 3 is concerned, the issue of the Defendant No 3 meeting the tender qualifications was considered extensively by the members in the SGBM and collective decision was taken by majority of members that the Defendant No 3 met the tender qualification and was appointed as preferred developer. The resolutions are subsisting and would bind the Plaintiffs, who are two out of 300 members of the Defendant No 1 Society. Without the resolutions being challenged and binding upon the Plaintiffs, no *prima facie* case is made out for trial.

91. In so far as balance of convenience is concerned, the majority of members of Defendant No 1 Society have taken a conscious decision to appoint Defendant No 3 as developer and to proceed with the re-development. The LOI has been issued to Defendant No 3 and the Defendant No 1 Society represents the majority of members. The process of re-development commenced in the year 2022 and substantial efforts and funds have been expended in appointment of PMC, holding SGBM, and appointment of Defendant No 3 as developer. The edifice of Plaintiff's case of loss of better offers as reputed developers did not bid due to the ESZ II classification, which was suppressed by the Defendant No 1 Society, is *prima facie* not demonstrated from the record. There were nine reputed developers who bid for the project under Regulation 33(9) and 33(19) and their commercial offers were duly considered in the SGBM. The vague plea of prospect being damaged by suppression of ESZ II is *prima facie* found to be without substance. To stop the re-development at this stage would cause irreparable loss and injury to the majority of members who are awaiting re-development and the balance of convenience tilts in the favour of the majority of members of Defendant No 1 Society.

92. At the appellate stage, the substitution of the Court's discretion for that of the Trial Court is an exception, where the discretion of the Trial Court has been exercised arbitrarily or perversely. The Trial Court has opined that though the land is Eco Sensitive Zone, the Defendant No 3 seeks to redevelop residential as well as commercial, without any discussion on the 2016 notification, which did not prohibit construction in accordance with the applicable development regulations. The Trial Court proceeded on the basis that in Eco Sensitive Zone, no commercial construction is permitted, which finding is perverse as the notification of 5th December, 2016 does not place any embargo on commercial construction. The subject land falling under Eco Sensitive Zone is an admitted position and no evidence is required to be led on the issue of construction in Eco Sensitive Zone. The Trial Court factually erred in holding that there is no disclosure in the tender about the subject land falling in Eco Sensitive Zone.

93. The Trial Court erred in holding that the Defendant No 3 seeks to take assistance of the financials of its sister concerns, whereas the parent company's creditworthiness was deliberated and accepted by majority of members in SGBM. As there was no case pleaded about SDPL not being the parent company of Defendant No 3, there is no discussion by the Trial Court on the said aspect and it has erroneously held that assistance of financials of sister concerns is taken by the Defendant No 3.

94. The Trial Court failed to consider the aspect of irreparable injury which will be caused to majority of members who are awaiting re-development and have opted development with Defendant No 3. The Trial Court ignored that the stalling of re-development at the instance of two members out of 300 members amounts to over-riding the will of majority of members, who have signified their assent to re-development with the Defendant No 3, without any challenge to the resolutions. The injunction indirectly operates as stay on the resolutions of the Defendant No 1 Society, which would be within the domain of the Co-operative Court under Section 91 of Maharashtra Co-operative Societies Act, 1960.

95. In light of the above discussion, the Appeals are allowed. The impugned order dated 25th June, 2026 passed in Notice of Motion No.1112 of 2026 in S.C. Suit No.594 of 2026 is hereby quashed and set aside.

96. Interim Applications do not survive for consideration and stand disposed of.

[SHARMILA U. DESHMUKH, J.]