



# UMESHCHANDRA YADAV-PATIL

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Advocate, High Court

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**Date:** 10.12.2025

**Querist:** Navjeevan CHSL, Mumbai Central, Mumbai 400008

1. **Ref:** Government Resolution dated: 04.07.2019

2. **Judgements:**

- a. Harish Arora and Others v/s. Deputy Registrar of Co-operative Societies and Others
- b. Devendra Kumar Jain v/s State of Maharashtra and Others

3. Earlier Opinion expressed by the undersigned in relation the ongoing redevelopment process.

4. Resolution passed by the society in its MC Meeting in the month of November, 2025.

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1. The undersigned had a privilege to hold a conference with the esteemed Managing Committee members of the querist society about the ongoing redevelopment process. During the meeting, one of the core concerns raised by the Managing Committee members as to whether the MC should follow the regular provisions of Act, Rules and byelaws or whether the MC should follow the Directions issued by the Government of Maharashtra under the provisions of Section 79 of the MCS Act-1960.
  2. On this issue, the undersigned had elucidated that the in view of the foregoing judgements, the applicability of the provisions of Section 79 of the MCS Act-1960, specifically, the directions issued by virtue

of the Government Resolution dated: 04.07.2019 [for the sake of brevity "**said directions**"] are **no more mandatory in nature**. Rather, the it is the choice of the society whether they want to follow the said directions or not.

3. It was apprised to the undersigned that the MC of the society had held its meeting in the last month of November, 2025, in which it was decided/resolved that a special General Body Meeting be called for the finalisation of the PMC for the redevelopment process.
4. As the decision to that effect has already been taken by the MC, it would be expedient for the MC to call for the Sp. General Body Meeting in order to finalize the PMC.
5. The next question which was put for my opinion was as to what should be the quorum for the Sp. AGM, where the decision for selection of PMC is to be taken. **The governing provisions for the same lies under byelaw no. 100 and 101 of the Moel Bye-laws.** Such quorum is under the presumption that the society isn't following the said direction. Needless to say, if the society decided to follow the said directions, in that case, the quorum shall be in accordance with the said directions. In this respect, I reiterate that now, the said directions under section 79-A are directory in nature. Therefore, it is open for the society to follow or not to follow the said directions. The said question left to the conscience of the members

of the society. The collective wisdom of the members is the key to that issue. In absence of the said directions, the entire procedure has to be looked into the provisions of the Act, Rule and the model bye-laws adopted by the society.

6. Though, in order to maintain '**procedural fairness**' and '**transparency**', the society has to act strictly in accordance with the provisions of the Maharashtra Co-operative Societies Act-1960, Maharashtra Co-operative Societies Rules-1930, the binding precedents of the judgements delivered by the Courts of Records [Hon'ble Supreme Court of the India and High Courts] and the Model byelaws adopted by the society so as to ensure and safeguard the larger interest of the members of the society.

Yours Truly,

(UMESHCHANDRA YADAV-PATIL)

