RAJASTHAN HIGH COURT
सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 23285/2026
CNR: RJHC021121302026 | URN: CW / 49121U / 2026

Rajasthan High Court
सत्यमेव जयते
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1. Kanhaiya Lal Mina S/o Late Shri Bhura Ram Meena, aged about 82 Years, President, Maharaj Vinayak Society, Jaipur, Resident of 27 II, Gokul Vatika, J.L.N. Marg, Jaipur, Rajasthan.
2. Vishal Jeph S/o Shri Kanhaiya Lal Mina, aged about 48 Years, Treasurer, Maharaj Vinayak Society, Jaipur, Resident of 27 II, Gokul Vatika, J.L.N. Marg, Jaipur, Rajasthan.

----Petitioners

Versus

1. Maharaj Vinayak Society, Jaipur, a Society registered under the Rajasthan Societies Registration Act, 1958 bearing Registration No. 539/Jaipur/1997 98, having its registered Office at M 80, Mahesh Colony, Tonk Phatak, Jaipur 302015, through Smt. Pinky Jeph W/o Dr. Vikas Jeph, who claims to be its Secretary, Resident of 27 II, Gokul Vatika, J.L.N. Marg, Jaipur, Rajasthan.

----Respondent/Plaintiff

2. Birma Devi W/o Shri Kanhaiya Lal Mina, Resident of 27 II, Gokul Vatika, J.L.N. Marg, Jaipur, Rajasthan. (Defendant No.3).
3. The Registrar, Societies Registration, Community Centre, Dev Nagar, Tonk Phatak, Tonk Road, Government of Rajasthan, Jaipur 302018. (Defendant No. 4)

----Proforma Respondents

For Petitioner(s)	:	Mr. Swadeep Singh Hora with Mr. Dushyant Sharma & Mr. Nakul Kaushik
For Respondent(s)	:	Mr. S.K. Gupta, Sr. Advocate assisted by Ms. Surbhi Agarwal Mr. R.K. Daga Mr. Ashwani Gupta Mr. Rajesh Maharshi with Mr. Devanshu Saini

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HON'BLE MR. JUSTICE ANAND SHARMA

Judgment

REPORTABLE

23/11/2026

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1. By way of the present writ petition under Article 227 of the Constitution of India, the petitioners have assailed the order dated 18.11.2026 passed by the learned Additional Senior Civil Judge and Additional Chief Judicial Magistrate No.3, Jaipur Metropolitan-I, Jaipur, in Civil Suit No.129/2026, whereby the application preferred by the petitioners under Order VII Rule 10 read with Section 151 CPC, seeking return of the plaint for presentation before the competent principal Court of original civil jurisdiction in terms of proviso (i) to Section 13(1) of the Rajasthan Societies Registration Act, 1958 (hereinafter referred to as 'the Act of 1958'), has been rejected.

2. Facts in brief, as pleaded in the writ petition, are that the petitioner No.1 claims to be the duly elected President and petitioner No.2 the duly elected Treasurer of respondent No.1-Society, namely Maharaj Vinayak Society, Jaipur, registered under the Act of 1958. The affairs of the Society are governed by its Memorandum and Rules and Regulations. The last undisputed list of the Executive Committee, dated 20.11.2023, submitted before the Registrar by the then Secretary, Dr. Vikas Jeph, reflected petitioner No.1 as President and petitioner No.2 as Treasurer of the Society.

3. According to the petitioners, certain disputes arose with Dr. Vikas Jeph regarding the custody of the Society's records and

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the convening of meetings. On 08.06.2026, petitioner No.1, petitioner No.2 and two other members submitted a representation before the Registrar, requesting that no alteration be made in the Memorandum, Rules or records of the Society without their knowledge and consent. Subsequently, petitioner No.1, in his capacity as President, convened a meeting of the Governing Council on 19.08.2026, which was adjourned to 22.08.2026. Dr. Vikas Jeph attended the said meeting in his capacity as Secretary and participated therein without disclosing any purported change in the office-bearers of the Society.

4. The petitioners contend that on 01.10.2026, while attempting to map the Society's SSO ID in the name of the President, they discovered that the records maintained on the portal of the Co-operative Department reflected Dr. Vikas Jeph as President, his wife Smt. Pinky Jeph as Secretary and his daughter Ms. Tejaswini Jeph as Treasurer. Upon obtaining documents under the Right to Information Act, 2005, they came to know that the aforesaid changes were purportedly based upon resolutions dated 13.08.2026 and 21.08.2026, whereby petitioner No.1 was allegedly removed from the office of President, petitioner No.2 and another member were expelled from the Society and certain new members and office-bearers were inducted.

5. The petitioners alleged that the aforesaid meetings were convened without due notice to them and that the proceedings and resolutions were fabricated. In this regard, FIR No.291/2026 dated 07.10.2026 came to be registered at Police Station-Jyoti Nagar, Jaipur City (South), against Dr. Vikas Jeph,

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Smt. Pinki Jeph and Ms. Tejaswini Jeph under the relevant provisions of the Bharatiya Nyaya Sanhita, 2023 and the Information Technology Act, 2000. The investigation in the matter is stated to be pending. The petitioners further assert that in the General Body Meeting held on 22.10.2026, they were again elected as President and Treasurer, respectively, and the annual list of members under Section 4A of the Act of 1958 was also submitted.

6. It is contended that in the aforesaid background, on 15.10.2026, Civil Suit No.129/2026 came to be instituted in the name of the Society through Smt. Pinky Jeph, claiming herself to be its Secretary, against the petitioners and other respondents. The principal relief sought in the suit is a declaration that the resolutions dated 13.08.2026 and 21.08.2026 are valid and that the Executive Committee constituted pursuant thereto is entitled to act and transact business in the name of the Society. Further consequential reliefs of mandatory and permanent injunction have also been sought in respect of the Society's records, offices, accounts and properties. Prayer of the civil suit is being reproduced as under:

> *"अतः वाद सशपथ–पत्र प्रस्तुत कर निवेदन है कि वादिनी का वाद उक्तानुसार प्रतिवादीगण के विरूद्ध संव्यय स्वीकार किया जाकर निम्न प्रकार डिक्री किये जाने की कृपा करें :–*
> *(1) यह कि वादी सोसायटी के पक्ष में इस आशय की घोषणा की जावे कि वादी सोसायटी की प्रबंध कार्यकारिणी द्वारा दिनांक 13.08.2026 को पारित प्रस्ताव एव उक्त प्रस्ताव के अनुसरण में वादी सोसायटी की साधारण सभा द्वारा वादी सोसायटी की प्रबंध कार्यकारिणी द्वारा दिनांक 13.08.2026 को लिये गये प्रस्ताव का दिनांक 21.08.2026 को किया गया अनुमोदन वादी सोसायटी के विधान एवं नियमावली के अनुरूप तथा विधि–सम्मत, मान्य एवं प्रभावी है एवं वादी सोसायटी की वर्तमान प्रबंध कार्यकारिणी को वादी सोसायटी के नाम से कार्य व संव्यवहार करने का पूर्ण अधिकार प्राप्त है।*
> *(2) यह कि प्रतिवादी संख्या 1 लगायत 3 को इस आशय की आदेशात्मक निषेधाज्ञा से पाबन्द किया जावे कि प्रतिवादी संख्या 1 लगायत 3 स्वयं को वादी सोसायटी के अध्यक्ष या प्रबंध कार्यकारिणी के अन्य*

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पदाधिकारी होना दर्शित ना करे तथा ना ही वादी सोसायटी के नाम से किसी प्रकार का कोई कार्य व संव्यवहार करे।

(3) यह कि प्रतिवादी संख्या 1 लगायत 3 को इस आशय की स्थायी निषेधाज्ञा से पाबन्द किया जावे कि प्रतिवादी संख्या 1 लगायत 3 वादी सोसायटी की वर्तमान प्रबंध कार्यकारिणी को वादी सोसायटी के लिये किये जाने वाले कार्यों व संव्यवहारों में किसी प्रकार की कोई बाधा या रूकावट न डाले तथा प्रतिवादी संख्या 1 लगायत 3 वादी सोसायटी व उसके द्वारा संचालित संस्थाओं के प्रशासन एवं वित्तीय नियंत्रण में वादी सोसायटी की वर्तमान प्रबंध कार्यकारिणी द्वारा किये जा रहे कार्य व संव्यवहारों में कोई बाधा उत्पन्न न करे तथा ना ही प्रतिवादी संख्या 1 लगायत 3 वादी सोसायटी के किसी परिसर तथा वादी सोसायटी द्वारा संचालित किये जा रहे महाराजा विनायक ग्लोबल विश्वविद्यायल के परिसरों में अवैध रूप से प्रवेश करे तथा ना ही वादी सोसायटी व वादी सोसायटी द्वारा संचालित उक्त विश्वविद्यालय के कामकाज में काई बाधा, रूकावट या अडचन पैदा करे तथा ना ही वादी सोसायटी के बैंक खातों में किसी प्रकार का कोई अवैध संव्यवहार करे। प्रतिवादी संख्या 1 लगायत 3 उक्त कार्य स्वयं करें तथा ना ही आने एजेन्ट, सर्वेन्ट, प्रतिनिधि, स्थानापन्न आदि से ही करावें।

(4) यह कि प्रतिवादी संख्या 4 को इस आशय की स्थाई निषेधाज्ञा से पाबन्द किया जावे कि प्रतिवादी संख्या 4 प्रतिवादी संख्या 1 लगायत 3 का नाम वादी सोसायटी की वर्तमान प्रबंध कार्यकारिणी के स्थान पर दर्ज ना करे तथा ना ही वादी सोसायटी की वर्तमान प्रबंध कार्यकारिणी में किसी प्रकार का कोई संशोधन या परिवर्तन करे।

(5) यह कि वादिनी को वाद व्यय प्रतिवादीगण से दिलाया जावें।

(6) यह कि अन्य कोई अनुतोष जो माननीय न्यायालय उचित समझे यह भी प्रतिवादीगण से दिलाये जाने के आदेश फरमावें।"

7. The petitioners initially raised objections under Order VII Rule 11 CPC and other provisions of the Code. The proceedings pertaining to the interim reliefs were also challenged before this Court. By order dated 05.11.2026 passed in S.B. Civil Writ Petition Nos.22728/2026 & 22739/2026, this Court directed the learned trial Court to hear and decide the applications under Order VII Rule 11, Order I Rule 10(2) CPC and Section 8 of the Arbitration and Conciliation Act, 1996, expeditiously, preferably by 25.11.2026. The parties were also directed not to take any important decision affecting the business and affairs of the Society.

8. Thereafter, on 16.11.2026, the petitioners preferred an application under Order VII Rule 10 read with Section 151 CPC, contending that the dispute raised in the suit is essentially an *inter se* dispute amongst the members and office-bearers of the

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Society concerning the adjustment of its affairs and, therefore, in view of proviso (i) to Section 13(1) of the Act of 1958, the suit could be instituted only before the principal Court of original civil jurisdiction of the district in which the principal office of the Society is situated, namely, the District Court, Jaipur.

9. It is contended by the petitioners that the plaintiff-Society filed its reply dated 17.11.2026 to the aforesaid application. However, the learned trial Court, vide the impugned order dated 18.11.2026, rejected the application. Hence, feeling aggrieved the present writ petition has been filed by the petitioners.

10. Mr. S.S. Hora, learned counsel for the petitioners submitted that the impugned order is contrary to the express language of proviso (i) to Section 13(1) of the Act of 1958 and the binding interpretation thereof by the Co-ordinate Bench of this Court at Principal Seat, Jodhpur in ***Shri Bhagwati Prasad Vs. Ishwar Prasad & Ors. (S.B. Civil Revision Petition Nos.177 and 178 of 2026)***, decided on 10.09.2026, and the subsequent order dated 14.10.2026 passed in ***S.B. Civil Review Petition No.11/2026 (Ishwar Prasad Khandelwal & Anr. Vs. Shri Bhagwati Prasad & Ors)***. It was argued that in the above referred judgments, this Court has categorically held that proviso (i) constitutes an independent and substantive provision prescribing the forum for adjudication of disputes amongst the members of a society and its governing body, irrespective of whether such disputes arise in connection with dissolution or winding up.

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11. Learned counsel for the petitioners further submitted that the nature of the dispute is evident from the plaint itself, wherein the plaintiff seeks a declaration regarding the validity of the resolutions allegedly removing the petitioners from their respective positions, expelling certain members and inducting new office-bearers. The consequential reliefs also relate to the administration, management and control of the Society, including its records, offices, bank accounts and properties. Thus, irrespective of the fact that the suit has been instituted in the name of the Society through a person claiming to be its Secretary, the real controversy is undeniably amongst rival members and office-bearers concerning the adjustment of the Society's affairs.

12. It was further argued that the learned trial Court committed a manifest error in invoking proviso (ii) merely on the ground that the resolutions were allegedly approved unanimously in the General Body Meeting dated 21.08.2026. Proviso (ii) regulates a matter decided by the requisite majority for the purpose of winding up the affairs of the Society and cannot be invoked in a dispute concerning removal, expulsion, induction or appointment of office-bearers. Moreover, unanimity amongst the persons allegedly present at a disputed meeting cannot be equated with the absence of a dispute amongst the members of the Society. The very notice, constitution, quorum and validity of the meetings are disputed.

13. Learned counsel for the petitioners also submitted that the learned trial Court itself refrained from recording any final finding regarding the number of persons present, the quorum or

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the validity of the meeting dated 21.08.2026. Having done so, it could not have assumed the applicability of the exception under proviso (ii) to retain jurisdiction. The jurisdictional objection was required to be determined on the basis of the plaint and the nature of the controversy disclosed therein, rather than on a possibility of certain disputed facts being established during trial. Reliance was also placed upon ***Terapalli Dyvasahata Kumar Vs. S.M. Kantha Raju (Dead) through Legal Heirs & Anr.*** reported in ***(2018) 11 SCC 769, Shri Sarbjit Singh & Ors. Vs. All India Fine Arts & Crafts Society & Ors.*** reported in ***ILR (1989) II Delhi 585*** and ***Ramgopal Meena & Ors. Vs. Ramsahay Meena & Ors. (S.B. Civil Revision Petition No.77/2025)***, decided on 27.03.2025, in support of the submissions concerning disputes relating to the internal affairs and management of societies.

14. *Per contra*, Mr. S.K. Gupta, Senior Advocate, ably assisted by Mr. R.K. Daga and Ms. Surbhi Agarwal, learned counsels appearing for the respondent-plaintiff raised a preliminary objection regarding the maintainability of the writ petition. It was contended that the order impugned has been passed in proceedings arising out of an application under Order VII Rule 10 CPC and, therefore, the appropriate remedy, if any, would be by way of revision under Section 115 CPC. According to learned counsel, the petitioners cannot circumvent the statutory remedy under the Code by invoking Article 227 of the Constitution of India.

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15. Learned Senior Counsel placed reliance upon judgment of Hon'ble Supreme Court in ***M/s EXL Careers & Anr. Vs. Frankfinn Aviation Services Pvt. Ltd. (Civil Appeal No.2904/2020,*** decided on 05.08.2020**,** judgment by Gujarat High Court in ***Arun Rambhau Desai Vs. Deepak Nitrite Ltd.*** reported in ***2024 Supreme (Online) (GUJ) 497***; and the judgment rendered by Delhi High Court in ***Black Diamond Trackparts Pvt. Ltd. & Ors. Vs. Black Diamond Motors Pvt. Ltd.*** reported in ***2021 Law Finder (Delhi) 1426***.

16. On merits, learned Senior Counsel opposed the petition and submitted that Section 13 of the Act of 1958 essentially deals with dissolution of societies and adjustment of their affairs consequent thereto. It was contended that unless a dispute arises in the course of dissolution or winding up of a society, proviso (i) cannot be invoked to confer exclusive jurisdiction upon the principal Court of original civil jurisdiction. Reliance in this regard was placed upon the judgment of the Madras High Court in ***The Managing Committee of the Sengunthar Education Board, Erode Vs. S.A. Periswami & Anr. (C.R.P. No.1849/1963)*** decided on 19.11.1963, and the judgment of this Court in ***Rajesh Vijayvergiya Vs. Sambhu Dayal Vijay (Advocate) & Ors. (S.B. Civil Second Appeal No.483/2018,*** decided on 14.09.2023.

17. Learned Senior Counsel further submitted that the resolutions dated 13.08.2026 were subsequently placed before and approved by the General Body Meeting dated 21.08.2026, allegedly with unanimity, and the subsequent changes in the

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office-bearers were accordingly entered in the records of the competent authority. It was contended that the suit has been instituted by the Society through its Secretary for protection of its institutional interests and that the controversy cannot be treated merely as a personal dispute between the petitioners and certain members of the Society. The learned trial Court, after considering the pleadings and the applicable provisions, has rightly declined to return the plaint and the impugned order does not warrant interference.

18. While submitting rejoinder, with regard to the preliminary objection concerning maintainability, learned counsel for the petitioners submitted that an order rejecting an application under Order VII Rule 10 CPC is not appealable under Order XLIII Rule 1(a) CPC, which contemplates an appeal only against an order actually returning the plaint. Further, the restriction imposed by the proviso to Section 115 CPC makes a revision against such an order unavailable. It was argued that the present petition under Article 227 of the Constitution of India is, therefore, maintainable and that the supervisory jurisdiction of this Court cannot be curtailed by the provisions of Section 115 CPC. In support of the aforesaid proposition, reliance was placed upon by learned counsel for the petitioners on judgment by the Co-ordinate Bench of this court in ***M/s. Rishabhdev Educational & Research Institute Vs. M/s. Career Point & Anr.*** reported in ***2012 SCC OnLine Raj 3627***, judgment delivered by Bombay High Court in ***Accent Construction & Contractors Pvt. Ltd. & Ors. Vs. Shah Nagindas Mancharam & Sons & Ors.*** reported

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in ***MANU/MH/3854/2019***, judgment delivered by Kerala High Court in ***Saranya Zaveri & Anr. Vs. Kamadon Academy Pvt. Ltd.*** reported in ***2006 SCC OnLine Ker 82*** and judgment delivered by Karnataka High Court in ***Sri M.J. Hanumaiah Vs. Smt. Lakshmidevamma & Ors. (Civil Revision Petition No.725/2026)***.

19. I have considered the rival submissions made by learned counsel for the petitioners and respondent-plaintiff. Also heard Mr. Rajesh Maharshi, learned counsel for respondent No.2 (defendant No.3 before the trial court), who supported the stand of the petitioners. As respondent No.3 is a proforma and formal party, and no relief has been sought in this writ petition against respondent, hence, notices were not required to be issued to respondent No.3. This Court also meticulously perused the material available on record.

20. Before examining the controversy on merits, it would be appropriate to deal with the preliminary objection raised on behalf of the respondent regarding maintainability of the present petition under Article 227 of the Constitution of India.

21. The preliminary objection proceeds on an erroneous understanding of the scope of Section 115 CPC and the constitutional supervisory jurisdiction of this Court. Order 43 Rule 1(a) CPC specifically provides for an appeal against an order under Order VII Rule 10 CPC directing return of a plaint for presentation before the proper Court, while allowing the application. The provision does not provide an appeal against an order rejecting an application seeking return of the plaint. Consequently, the

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petitioners do not have an appellate remedy under the aforesaid provision. As regards, the scope of revisional jurisdiction is concerned, this Court finds that jurisdiction under Section 115 CPC has also been substantially restricted by the amendment brought about by Act No.46 of 1999. The proviso to Section 115(1) makes it clear that the High Court cannot vary or reverse an order made in the course of a suit or other proceeding unless the order, if made in favour of the party applying for revision, would have finally disposed of the suit or other proceeding. Thus, the relevant test is not merely whether the order decides an issue concerning jurisdiction, but whether allowing the application would have finally disposed of the proceedings.

22. The aforesaid legal position stands authoritatively explained by the Hon'ble Supreme Court in ***Shiv Shakti Co-operative Housing Society, Nagpur Vs. Swaraj Developers & Ors.*** reported in ***(2003) 6 SCC 659***, wherein it has been held that the maintainability of a revision under Section 115 CPC is to be determined with reference to whether the order, if made in favour of the applicant, would have finally disposed of the suit or proceeding. An order which does not satisfy this requirement cannot be subjected to revision under Section 115 CPC.

23. The Division Bench of the Bombay High Court in ***Accent Construction & Contractors Pvt. Ltd. (supra)***, while answering a reference and considering an order rejecting an application for return of the plaint on the ground of want of territorial jurisdiction, held that such an order is not revisable under Section 115 CPC and is amenable to challenge under Article

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227 of the Constitution of India. The Division Bench, after considering the judgment in ***Shiv Shakti Co-operative Housing Society (supra)***, categorically held that an order refusing to return the plaint cannot be challenged by way of revision under Section 115 CPC and the appropriate remedy is to invoke the supervisory jurisdiction of the High Court is as under:

> *"1. The issue which the Division Bench needs to answer is as per the order of reference dated 04.05.2010.*
> *2. The Writ Petition under Article 227 of the Constitution of India challenges the order dated 30.10.2009 passed by the learned Civil Court at Kolhapur rejecting the Petitioners' application to return the plaint on the plea of lack of territorial jurisdiction. The impugned order holds that the Court has territorial jurisdiction.*
> *8. Post amendment w.e.f. 01.07.2002 the position has undergone a change. As per the proviso only such order can be challenged by way of a revision if the decision in the revision would be of a kind where the suit or other proceedings terminate finally disposed of.*
> *10. Following the law declared by the Supreme Court in Shiv Shakti Co-op. Housing Society, we answer the reference by holding that an order rejecting an application filed by a party in a suit praying that the Court, having no territorial jurisdiction, should return the plaint, is not a revisable order and challenge to such order has to be by way of a proceeding under Article 227 of the Constitution of India."*

24. After careful examination of the judgment of the Gujarat High Court in ***Arun Rambhau Desai (supra)***, this court finds that in the said case, the Court was confronted with a similar preliminary objection concerning the maintainability of a revision petition against an order rejecting an application under Order VII Rule 10 CPC. While examining the interplay between Section 115 CPC and Article 227 of the Constitution of India, the Court clarified that the constitutional supervisory jurisdiction under Article 227 of the Constitution of India remains available even where the question of maintainability of a revision under Section 115 CPC is separately considered. The above decision, therefore, does not

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support the objection raised by the respondent and rather, it recognizes the availability of Article 227 jurisdiction.

25. Similarly, the decision in ***Black Diamond Trackparts Pvt. Ltd. (supra)***, also arose from an order rejecting an application under Order VII Rule 11 CPC on the ground of lack of territorial jurisdiction and examined the availability of supervisory jurisdiction under Article 227 of the Constitution of India in the context of restrictions on revisional jurisdiction.

26. As far as the judgment in ***M/s. EXL Careers (supra)*** is concerned, the said judgment is principally concerned with whether proceedings continue from the stage at which the plaint was returned or commence *de novo* before the competent Court. It does deal with question of maintainability of petition under Article 227 of the Constitution of India against rejection of an Order VII Rule 10 application. It may be relevant for the consequences of return of plaint, but has no application on the point of maintainability of the petition under Article 227 of Constitution of India.

27. The decisions relied upon by the petitioners, including ***Rishabhdev Educational & Research Institute (supra)*** and ***Saranya Zaveri (supra)***, also have to be understood in the context of the distinction between statutory revisional jurisdiction and constitutional supervisory jurisdiction. Likewise, the judgment cited as ***Shri M.J. Hanumaiah (supra)***, is relied upon for the same proposition, subject to its applicability on the facts and the precise procedural issue decided therein.

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28. In ***Rishabhdev Educational & Research Institute (supra),*** where a preliminary objection relating to maintainability of Revision Petition filed against order rejecting application under Order VII Rule 10 CPC was raised, after considering the objections this court observed as under:

> *"**2.** Brief relevant facts for the disposal of this revision petition are that plaintiff-non-petitioner filed a suit for permanent injunction against the petitioner in which an averment was made that the cause of action has arisen within the jurisdiction of the Court below and, therefore, the Court below has jurisdiction to entertain and decide the suit filed by the non-petitioner. The petitioner filed an application under Order VII, Rule 10, C.P.C. stating therein that for the reasons stated in the application the Court below has no jurisdiction to entertain and decide the suit filed by the non-petitioner. Reply to the application was filed by the non-petitioner and the learned Court below after hearing both the parties dismissed the application vide impugned order dated 27.1.2009. Feeling aggrieved, the defendant-petitioner is before this Court by way of this civil revision petition. As during the course of hearing preliminary objection regarding maintainability of the revision petition under section 115, C.P.C. was taken on behalf of the non-petitioner, it is appropriate to consider and decide the same at the very outset.*
>
> ***7.** In the present case, it is to be considered if the application filed by the petitioner had been allowed whether it would have given finality to the suit filed by the non-petitioner. I am of the view that if the application had been allowed by the Court below and order in favour of the petitioner were made, the result at the most would have been that the plaint filed by the non-petitioner would have been returned to him with a direction to present it before a proper Court but mere return of plaint could not mean that the suit has been finally disposed of. The phraseology "final disposal of the suit" used in the proviso is to be understood not the Court wise disposal but suit wise disposal and that too disposal according to law. If a Court returns a plaint by allowing the application filed by the defendant under Order VII, Rule 10, C.P.C., the suit would not have been finally disposed of, rather the plaint has been returned and the lis between the parties remains pending. Disposal of suit means determination of the process undertaken by the Court for deciding the issue in the lis between the two contending parties. "Finally disposed of the suit" means ultimate ending of the suit either for default of the parties or compromise or due to the order of the Court. Although, after return of the plaint by the Court in which it was filed so far as that Court is concerned, the suit is ended or finally disposed of but there is no final disposal of the suit itself. The plaintiff has a right to file the plaint so returned in an appropriate Court and dispute between the parties remains pending for adjudication. This much is not*

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> *sufficient that so far as that Court is concerned, the suit has come to an end as soon as the plaint was returned to the plaintiff. The purpose of making amendment in section 115, C.P.C. in the year 2002 was to further curtail the jurisdiction of the High Court to entertain revision petitions. If keeping in mind the purpose of the amendment so made, the meaning of the words "finally disposed of is considered it cannot carry any other meaning otherwise than that the merit of the suit is considered and decided.*
> ***8.*** *The result of all this discussion is that the preliminary objection raised on behalf of the non-petitioner is legally sustainable and is liable to be allowed."*

29. In the case of ***Saranya Zaveri (supra)***, the Kerala High Court observed as under:

> ***"15.*** *This is not a case where the plaint is liable to be rejected under Order VII, rule 11(a), Civil Procedure Code for the reason that the plaint does not disclose a cause of action. This is really a case where the cause of action alleged in the plaint has not taken place within the local limits of the jurisdiction of the Ernakulam court. The objection regarding territorial jurisdiction of the court below was raised at the earliest opportunity. Hence the plaint was liable to be returned under Order VII, rule 10, Civil Procedure Code for being presented to the court where the suit should have been instituted. An order returning a plaint under Order VII, rule 10, is appealable under Order 43, rule 1(a), Civil Procedure Code whereas an order refusing to return a plaint under Order VII, rule 10, Civil Procedure Code is not appealable. A strict application of section 115 Civil Procedure Code will indicate that such an order is not revisable either and indeed there is no contention also that the impugned order is revisable. In the light of the authoritative pronouncement of the apex court in Surya Dev Rai v. Ram Chander Rai (2003) 6 SCC 675 the refusal on the part of the court below to entertain the objection regarding territorial jurisdiction and to return the plaint under Order VII, rule 10, Civil Procedure Code is clearly amenable to correction in a writ petition filed under article 227 of the Constitution of India. Such being the position, I do not find any merit in the objection raised by the respondent/plaintiff. In the light of the conclusion reached by me, I am not going into the merits of the other contentions raised by the parties, as the same will have to be considered by the appropriate court having territorial jurisdiction to entertain the suit.***"***

30. While considering the question regarding maintainability of revision petition against rejection of application under Order VII Rule 10 CPC, ***Shri M.J. Hanumaiah (supra)***, the Karnataka High Court held as under:

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"11. Section 115 of CPC confers a limited revisional jurisdiction upon the High Court. The existence of an error relating to the exercise of jurisdiction itself is not sufficient to attract the provision. The proviso to Section 115 (1) of CPC places a further restriction upon the power of interference. It provides that the High Court shall not vary or reverse an order passed during the course of a suit or other proceedings and the order, if made in favour of the parties seeking revision, would have finally disposed of the suit or proceedings. The Hon'ble Supreme Court clarified the scope of the amended provision in the case of ***Shiv Shakti Coop. Housing Society Vs. M/S. Swaraj Developers & Ors****. The Supreme Court examined whether an order in favour of the revision petitioner would have brought finality to the suit or proceedings. Whether the proceedings would continue notwithstanding such an order, the restriction imposed by the proviso would operate. The revisional jurisdiction therefore cannot be invoked against the interlocutory order merely on the ground that the subordinate court committed an error of jurisdiction. More importantly, an identical question arose before the Co-ordinate Bench of this Court in the case of* ***Sri. Y. Nagi Reddy Vs. Y. Narayan Reddy****. In that case, the petitioner challenged the rejection of an application under Order VII Rule 10 CPC, seeking return of the plaint on the ground of pecuniary jurisdiction. The Court considered the effect of the proviso to Section 115 of CPC and held that an order directing return of plaint is distinguishable from an order rejecting the plaint. Return of the plaint enables presentation before the competent court and does not finally determine the substantive dispute between the parties. Consequently, the revision petition is dismissed as not maintainable. The distinction between return and rejection of a plaint is material. The rejection of a plaint under Order VII Rule 11 of CPC results in termination of the suit and constitutes a decree within the meaning of Section 2(2) of CPC. Return of a plaint under Order VII Rule 10 of CPC, on the other hand, allows the plaintiff to present the plaint before the appropriate court. Although an order directing the return of a plaint is appealable under Order 43 Rule 1(a) of CPC, the dismissal of an application seeking such return does not provide an appeal provision. However, the absence of an appeal does not automatically make the order revisable under Section 115 of the CPC. In the present case, the petitioner seeks return of the plaint for representation before another court. The relief sought is not rejection of the plaint or termination of the respondent's substantive claim. Further, the learned Senior Civil Judge has not conclusively determined the question of pecuniary jurisdiction. The impugned order expressly leaves that question open for consideration. The contention that allowing the application would bring the proceedings before the Senior Civil Judge to an end, in the light of the decision of the Court, referred supra cannot be regarded as sufficient to satisfy the requirements of Section 115 of CPC. The return of a plaint for presentation before another court is not equivalent to final adjudication of the substantive dispute. The fact that the application has been dismissed as premature*

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does not alter the nature or effect of the relief sought by the petitioner. Once this Court finds that the revision petition is not maintainable, it would be inappropriate to examine the correctness of the reasons assigned by the learned Senior Civil Judge. The question is whether the application under Order VII Rule 10 of CPC could have been considered before determination of the indigenous case. Whether the proceedings fall within the pecuniary jurisdiction of the Senior Civil Judge, and whether the circular dated 01.09.2006 applies to the questions on the merits of the matter, they have to be adjudicated in the appropriate proceedings before the appropriate Court. This Court is, therefore, of the considered view that the preliminary objection raised by the respondent is valid and that the Civil Revision Petition is not maintainable under Section 115 of the Code of Civil Procedure, 1908. In that view of the matter, this Court is passing the following:

ORDER

*i. Accordingly, the Civil Revision Petition is **dismissed as not maintainable** under Section 115 of CPC."*

31. On the basis of aforesaid principles laid down by the different Courts, it can be deduced that against order passed by the trial Court while rejecting application under Order VII Rule 10 CPC, petition under Article 227 of the Constitution of India is maintainable. The obvious reasons are that, had the application under Order VII Rule 10 CPC been allowed, and the plaint would merely have been returned for presentation before the competent principal Court of original civil jurisdiction. The controversy between the parties would not have stood finally adjudicated, rather, the suit would have proceeded before the competent Court in accordance with law. Therefore, the order rejecting the application does not satisfy the statutory requirement prescribed under the proviso to Section 115 CPC. On the contrary, in view of the absence of an appeal against an order refusing to return the plaint and the restrictions imposed by Section 115 CPC, the supervisory jurisdiction under Article 227 of the Constitution of

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India provides an appropriate constitutional remedy in a case involving a patent jurisdictional error.

32. Accordingly, the preliminary objection raised by the respondent regarding maintainability of the present writ petition is rejected.

33. However, even for seeking interference in a petition under Article 227 of the Constitution of India, the petitioners must establish that the impugned order suffers from a jurisdictional error or patent illegality warranting interference under Article 227 of the Constitution of India, and mere disagreement with the reasoning of the learned Trial Court would not suffice. Nevertheless, where a subordinate Court assumes jurisdiction not vested in it by law, refuses to exercise jurisdiction vested in it, or acts in patent disregard of the governing statutory provisions, this Court is not precluded from exercising its supervisory jurisdiction to keep the subordinate Courts within the bounds of their authority.

34. Now adverting to the merits of the controversy, the principal question requiring consideration is whether a dispute amongst the members and office-bearers of a society concerning the validity of resolutions relating to its management, constitution and administration falls within the ambit of proviso (i) to Section 13(1) of the Act of 1958, thereby requiring the dispute to be referred to the principal Court of original civil jurisdiction of the district in which the principal office of the Society is situated, or not?

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35. Section 13 of the Act of 1958 bears the heading 'Provision for dissolution of societies and adjustment of their affairs'. The main provision deals with the dissolution of a society upon a determination by not less than two-thirds of its members and the consequential disposal and settlement of its property, claims and liabilities. However, the provision also contains two provisos which are required to be considered in their proper statutory context.

36. Section 13 of the Act of 1958 reads as follows:

> ***"13. Provision for dissolution of societies and adjustment of their affairs***
>
> *Any number not less than two-thirds of the members of a society registered under this Act may determine that it shall be dissolved; and thereupon it shall stand dissolved forthwith or at. the time then agreed upon and all necessary steps shall be taken for the disposal and settlement of the property of the society and its claims and liabilities according to the rules and regulations of the said society, applicable thereto, if any, and, if not, then as the governing body, or a special committee formed to replace the governing body in respect of all matters affecting the winding up of the affairs of the society shall find expedient:*
>
> *Provided that*
>
> *(i) in the event of any dispute arising among the governors, directors, trustees or members of the said governing body or if it has been replaced by a special committee as aforesaid, among the members thereof' or among the members of the society, the adjustment of its affairs shall be referred to the principal court of original civil jurisdiction of the district in which the principal office of the society is situated and the court shall make such order in the matter as it shall deem requisite;*
> *(ii) any matter decided by two-thirds of the members of the society or of the governing body thereof or of any special committee formed to replace the governing body for the purpose of winding up the affairs of the society present either in person or by proxy at any meeting of such society or governing body or special committee shall not be deemed to be a matter of dispute within the meaning of clause (i);*
> *(iii) no society shall be dissolved unless two-thirds of its members shall have expressed a wish for such dissolution by their votes delivered in person or by proxy at a special general meeting convened for the purpose;*
> *(iv) whenever any Government is a member of or a contributor to, or otherwise interested in any society*

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registered under this Act, such society shall not be dissolved without the consent of such Government; and
(v) nothing in this section shall be deemed to affect any provision contained in any instrument for the dissolution of such society."

37. A plain reading of the aforesaid proviso (i) of Section 13 of the Act of 1958 reveals that the Legislature has employed the expression 'any dispute' and has specifically referred to disputes arising amongst the Governors, Directors, Trustees, members of the governing body and members of the society. The provision further mandates that the adjustment of the affairs of the society in such circumstances shall be referred to ‘the principal Court of original civil jurisdiction of the district’ in which the principal office of the society is situated.

38. The expression 'any dispute' is of wide amplitude. The Legislature has consciously not restricted its operation to disputes arising out of dissolution or winding up. Similarly, the expression 'adjustment of its affairs' cannot be confined to settlement of the property, claims and liabilities of a society consequent upon its dissolution. Had the Legislature intended to restrict the operation of proviso (i) to disputes arising only during winding up, it could have employed such restrictive language, as it has done in the main provision and proviso (ii).

39. This court finds that the distinction between the language employed in the main provision and that used in proviso (i) is significant. The main provision deals with dissolution and the consequential winding up of the affairs of a society, whereas proviso (i) specifically provides for adjudication of disputes amongst the persons managing or constituting the society. The

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two provisions operate in distinct fields and must be interpreted harmoniously so as to give meaningful effect to the language employed by the Legislature.

40. It is equally significant that proviso (ii) creates an exception in respect of a matter decided by the requisite majority for the purpose of winding up the affairs of the society. If proviso (i) were to be confined only to disputes arising in connection with dissolution or winding up, there would hardly be any necessity for separately providing such an exception in proviso (ii). The legislative distinction between the two provisos cannot be rendered otiose by importing into proviso (i) a limitation which the Legislature has consciously not incorporated therein.

41. In this regard, the judgment of the Co-ordinate Bench of this Court at Principal Seat, Jodhpur, in ***Shri Bhagwati Prasad (supra)***, is directly relevant. In the said case, this Court considered the precise question concerning the applicability of proviso (i) to Section 13 of the Act of 1958 and held that disputes amongst the members of a society relating to its affairs are required to be referred to the principal Court of original civil jurisdiction of the district in which the principal office of the society is situated. The Co-ordinate Bench observed as under:

> *"8. Coming on to Proviso (i) to Section 13 of the Act of 1958, it provides that all disputes arising between the Governors, Directors, Trustees or members of the governing body, or among the members of the society, shall be referred to the principal Court of original civil jurisdiction of the District in which the principal office of the society is situated.*
> *9. Admittedly, plaintiff is a member of the society and has filed the suit praying for an injunction qua the affairs of the society, to be specific, the election and the subsequent process. It is also an admitted fact that the principal office of the concerned society is situated*

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> *at Sirohi, which fact is evident from the pleadings made in para No.1 of the plaint.*
> *10. In view of the above admitted facts, the suit in question could definitely not have been entertained by a Civil Court in terms of Proviso (i) to Section 13 of the Act of 1958. The said Proviso specifically provides for reference to the Principal Court of original civil jurisdiction which definitely is a District Court.*
> *12. It is relevant to note at this stage that the learned Trial Court totally ignored the Proviso to Section 13 while relying upon the main Provision of the said Section. The said approach being in contravention to law, deserves interference by this Court.*
> *13. In the specific opinion of this Court, the learned Trial Court ought to have allowed the application under Order VII Rule 10,CPC and ought to have returned the plaint to the plaintiff to be filed before the competent Court. So far as application under Order VII Rule 11 is concerned, the same has rightly been rejected as the suit in question although not maintainable before a Civil Court, could not have been termed to be barred by law for the said reason."*

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42. Perusal of the above judgment would make it clear that the coordinate Bench of this court, after examining the statutory scheme, held that where the dispute concerns the affairs of the society and arises amongst its members, the suit cannot be entertained by an ordinary Civil Court in disregard of the specific forum prescribed under proviso (i). Consequently, the order rejecting the application under Order VII Rule 10 CPC was set aside and the plaint was directed to be returned for presentation before the competent Court.

43. The aforesaid interpretation made by this Court in ***Shri Bhagwati Prasad (supra)*** was further examined in the review proceedings in ***Ishwar Prasad Khandelwal (supra)***. The Court specifically considered the argument that Section 13 of the Act of 1958 applies only to disputes relating to dissolution or winding up of societies and rejected the same. The reliance placed by the petitioners on ***Ramgopal Meena (supra)***, also requires consideration in its proper factual and statutory context. The

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review Court in ***Ishwar Prasad Khandelwal (supra)*** was specifically apprised of the said judgment and, after examining the objection founded upon it, declined to review the earlier decision. The review order, therefore, leaves no scope for adopting the restricted interpretation of Section 13 sought to be canvassed by the respondent in the present proceedings. It would beneficial to quote following relevant part of the judgment in Review Petition:

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> *"3. The petitioner, present-in-person, while relying upon the Coordinate Bench Judgment in **Ramgopal Meena & Ors. Vs. Ramsahay Meena & Ors; S.B. Civil Revision Petition No.77/2025** (decided on 27.03.2025) submitted that in the said matter, the Court observed that the suit shall be triable by a Civil Court, therefore, order impugned be reviewed in light of the order passed in **Ramgopal Meena** (supra).*
> *6. So far as Section 13 of the Act of 1958 is concerned, true it is that the main provision pertains to dissolution of societies, but then, it also talks of the adjustment of their affairs. This Court is of the clear view that Proviso (i) to Section 13, in the manner framed, is essentially required to be read independent of the main provision. The fact of Proviso (i) to Section 13 itself being a substantive provision fortifies from the sole fact that it talks of '**any dispute**' and not solely of the disputes pertaining to the dissolution or winding up of societies. Further, disputes entailed in Proviso (ii) to Section 13 relating to the affairs/disputes of the societies for the purpose of winding up, have been specified to bean exception to Proviso (i).*
> *7. What can be interpreted from a cumulative reading of the above two provisos is that, disputes pertaining to the affairs of the societies for the purpose of winding up, would fall within the purview of Proviso (ii) and would not be governed by Proviso (i).Meaning thereby, Proviso (ii) provides for a remedy qua disputes arising out of dissolution/winding up of a society while Proviso (i)pertains to all the other disputes. Had the intention of the legislature been to govern the disputes pertaining to dissolution/winding up also by Proviso (i), an express reference of the said fact would definitely have been inserted in the said proviso.*
> *8. Evidently, Proviso (i) does not speak of any dispute pertaining to dissolution/winding up but specifically talks of 'any dispute'. In that event, Proviso (i) would definitely be termed to bean independent provision and would definitely govern all the other disputes arising among all the categories as mentioned therein, including the members of the societies.*
> *9. The above conclusion can also be drawn from the fact that the main provision of Section 13 talks only of the governing body or the special committee and not of all the members of the society. However, Proviso (i)*

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talks of the members of the society too and also of the adjustment of the affairs of the society.

10. The most important aspect to further fortify the above conclusion is that there is no provision in the entire Act of 1958except Proviso (i) to Section 13 which provides for a remedy in case of disputes arising out of the affairs of the society. When the Legislature intended to enact a legislation governing the affairs of the society, it definitely would have anticipated the existence of disputes between the members of the society. The forum for resolution of those disputes definitely would have been intended while framing the legislation. Keeping into consideration the manner in which Proviso (i) to Section 13 has been framed, it can be safely concluded that the intent of Proviso (i) to Section 13 is to govern all the other disputes arising between the members of the society as well as the governing body, except the disputes falling within the purview of Proviso (ii) to Section 13.

11. The issue as raised by the petitioner, whether a proviso can be read independent of the provision, is no more res integra. As held by Hon'ble the Apex Court in ***Commissioner of Commercial Taxes & Ors. Vs. R.S. Jhaver & Ors.; AIR 1968SC 59****, generally speaking, the proviso is an exception to the main part of the Section, but it is recognised that in exceptional cases,a proviso may be a substantive provision itself. In* ***S. Sundaram Pillai, Etc vs V.R. Pattabiraman, Etc; 1985 AIR 582****, Hon'ble the Apex Court, while considering the legal position pertaining to a Proviso, summed up as under:*

> *"To Sum up, a proviso may serve four different purposes:*
> *(1) qualifying or excepting certain provisions from the main enactment;*
> *(2) it may entirely change the very concept of the intendment of the enactment by insisting on certain mandatory conditions to be fulfilled in order to make the enactment workable;*
> *(3)* ***it may be embedded in the Act itself as to become an integral part of the enactment and thus acquire the tenor and colour of the substantive enactment itself****; and*
> *(4) it may be used merely to act as an optional addenda to the enactment with the sale object of explaining the real intendment of the statutory provision."*

13. This Court is therefore, of the clear opinion that the dispute as raised by the plaintiff in the present suit would definitely be governed by Proviso (i) to Section 13 of the Act of 1958 and hence, would lie only before the Principal Court of Original Civil Jurisdiction of the district in which the principal office of the society is situated. Order dated 10.09.2026 therefore, being in consonance with law, does not deserve any reconsideration.

14. So far as the judgment in ***Ramgopal Meena*** *(supra) is concerned, the same is clearly distinguishable on facts. Therein, the Court specifically observed that the plaint was not filed in terms of Section 13 of the Act of 1958. The ratio laid down in*

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> ***Ramgopal Meena*** *(supra) therefore would not apply to the present matter."*

44. Thus, this court in above judgments held that proviso (i) to Section 13 is essentially required to be read as an independent and substantive provision, as it speaks of 'any dispute' amongst the specified categories of persons and not merely disputes relating to dissolution or winding up. It was further held that proviso (ii) deals with matters decided for the purpose of winding up the affairs of the society and constitutes an exception to the general operation of proviso (i).

45. The Court also emphasized that there is no other provision in the entire Act of 1958 which specifically provides a forum for adjudication of disputes arising out of the affairs of a society. The intention of the Legislature, therefore, was to provide a designated forum for resolution of such disputes through proviso (i). It was consequently reiterated that disputes amongst the members and governing body of a society, other than those falling within the exception contemplated by proviso (ii), are required to be brought before the principal Court of original civil jurisdiction.

46. The aforesaid judgment in review proceedings in ***Ishwar Prasad Khandelwal (supra)*** is significant in the present case also because the precise interpretation now canvassed by the respondent was considered and rejected by this Court. The interpretation of proviso (i) as an independent substantive provision is not merely an incidental observation but forms the very foundation of the decision.

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47. The proposition that a proviso ordinarily qualifies or excepts certain matters from the main enactment is well settled. However, a proviso may, in an appropriate case, also contain a substantive provision. The Hon'ble Supreme Court in ***Commissioner of Commercial Taxes & Ors. Vs. R.S. Jhaver & Ors.*** reported in ***AIR 1968 SC 59*** and ***S. Sundaram Pillai, Etc Vs. V.R. Pattabiraman, Etc*** reported in ***(1985) AIR 582***, has explained the different functions which a proviso may perform, including the incorporation of a substantive provision within the enactment itself.

48. Therefore, the contention of the respondent that proviso (i) can be invoked only when dissolution or winding up of a society is involved cannot be accepted. Such an interpretation would not only be contrary to the plain language of the provision but would also defeat the legislative purpose of providing a specific forum for adjudication of disputes concerning the affairs of societies.

49. Having determined the scope of proviso (i), the question is whether the dispute disclosed in the plaint falls within its ambit. For this purpose, the substance of the plaint, the nature of the controversy and the reliefs sought are required to be examined. It is well settled that, while considering an application under Order VII Rule 10 CPC, the Court must examine the plaint and the documents relied upon by the plaintiff to determine the proper forum. The defence and disputed questions requiring adjudication at trial are ordinarily irrelevant at this stage. In ***Terapalli Dyvasahata Kumar (Supra)***, the Hon'ble Supreme

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Court reiterated that the question of jurisdiction must be determined from the pleadings and nature of the suit without entering into the merits of the controversy. It would be relevant to notice following observations in the judgment:

> *"**12.** It will be apparent that the scheme of the Societies Registration Act on the one hand, and that of the Andhra Pradesh (Telangana Area) Act and the consolidating Act of 2001 on the other is completely different. On the one hand, the 1860 Act refers the dispute that arises under Section 13 only to the Principal Court of Original Civil Jurisdiction of the district in which the chief building of the society is situate. Under this Act therefore, jurisdiction is confined to one court and one court only: that is the Principal Court of Original Civil Jurisdiction where the actual physical main building of the society is situate. On the other hand, Section 11 of the 1940 Act and Section 23 of the 2001 Act enable the person aggrieved to file an application in the "District Court concerned". It is this expression that has to be construed by this Court in the present case."*

50. In the present case, the principal relief sought by the plaintiff is a declaration regarding the validity of the resolutions dated 13.08.2026 and 21.08.2026 and the consequential right of the Executive Committee constituted pursuant thereto to administer and transact the affairs of the Society. The resolutions allegedly provide for removal of petitioner No.1 from the office of President, expulsion of petitioner No.2 and another member, induction of new members and appointment of new office-bearers. Thus, the controversy essentially concerns the constitution and composition of the governing body, membership rights, removal and expulsion of members and authority of rival office-bearers to administer the Society. These matters directly relate to the adjustment of the affairs of the Society within the meaning of proviso (i) to Section 13(1) of the Act of 1958.

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51. The institution of the suit in the name of the Society through Smt. Pinky Jeph, claiming to be its Secretary, does not alter the essential nature of the dispute, particularly when her authority to represent the Society itself emanates from the very resolutions whose validity is under challenge. Section 6 of the Act of 1958 merely prescribes the manner in which a registered society may sue or be sued; it does not determine the forum for adjudication of disputes relating to its internal administration. The two provisions operate in distinct fields: Section 6 governs the institution of proceedings in the Society's name, whereas proviso (i) to Section 13 prescribes the forum for adjudication of disputes amongst its members and governing body. Section 6 cannot be invoked to circumvent the specific statutory mandate under Section 13.

52. Significantly, the learned trial Court itself noticed that the suit concerns the validity of the Managing Committee, rights of office-bearers and administration and control of the Society. Having recorded so, the learned trial Court ought to have applied proviso (i), unless the dispute was demonstrably covered by the exception under proviso (ii). However, it proceeded on the assumption that the alleged unanimous approval of the resolutions dated 13.08.2026 in the General Body Meeting dated 21.08.2026 might attract the said exception. This approach is legally untenable. Proviso (ii), read in its statutory context, contemplates a decision by the requisite majority for the purpose of winding up the affairs of the Society. It cannot be extended to every

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resolution passed by the General Body merely because it is claimed to have been unanimously approved.

53. Perusal of the record would reflect that neither the plaint contains any pleading seeking dissolution or winding up of the Society nor do the resolutions in question indicate that they were passed for such purpose. They relate exclusively to removal and expulsion of existing members, induction of new members and reconstitution of the Executive Committee. The essential requirement for attracting proviso (ii), namely, a decision for winding up the affairs of the Society, is therefore conspicuously absent. The alleged unanimity of approval cannot substitute this statutory requirement.

54. Further, a dispute within the meaning of proviso (i) does not cease to exist merely because one group claims that its resolutions were unanimously approved. Its existence must be determined from the nature of the controversy amongst the members and governing body, rather than the voting pattern asserted by one group. Indeed, the plaint itself proceeds on the premise that petitioner No.1 was removed and petitioner No.2 expelled and that their continuance in the affairs of the Society is contrary to the resolutions in question. The very institution of the suit seeking judicial recognition of those resolutions demonstrates that the authority of rival office-bearers and composition of the governing body are seriously contested. Moreover, unanimity amongst persons allegedly present at a meeting cannot be equated with unanimity amongst all members, particularly when

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the validity of the meetings, service of notices and requisite quorum are disputed.

55. The learned trial Court expressly refrained from recording any final finding regarding the attendance, quorum or validity of the meeting dated 21.08.2026. Having done so, it could not have presumed the applicability of proviso (ii). In any event, even assuming unanimous approval by all persons present, the exception would remain unavailable in the absence of a decision for winding up the Society. At this stage, the trial Court was neither required to determine the genuineness or validity of the resolutions nor to adjudicate the legality of the removal or expulsion of the petitioners or the subsequent election dated 22.10.2026. Those issues are matters for adjudication before the competent Court. The limited enquiry was whether the nature of the dispute disclosed in the plaint attracted proviso (i), and the answer is clearly in the affirmative.

56. The plaintiff's own reply to the application under Order VII Rule 10 CPC, wherein it acknowledged that the controversy relates to a dispute amongst the members of the Society, further lends support to this conclusion. Although such admission cannot independently confer or exclude jurisdiction, it reinforces the nature of the dispute emerging from the plaint. Likewise, the allegations of fabrication, fraud and manipulation of Society records and registration of an FIR do not take the controversy outside the ambit of proviso (i). Their truthfulness is not being examined herein; they merely form part of the larger controversy

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concerning the authority and validity of the proceedings through which the governing body is claimed to have been reconstituted.

57. The decision of the Delhi High Court in ***Shri Sarbjit Singh (supra)***, also recognises that disputes concerning membership, expulsion and functioning of office-bearers relate to the internal affairs of a society. Though rendered in the context of the Central Societies Registration Act, 1860, the decision lends support to the aforesaid understanding of the nature of such disputes.

58. The judgment of the Madras High Court in ***The Managing Committee of the Sengunthar Education Board, Erode (supra)***, relied upon by the respondent, does not advance its case. The said judgment interpreted Section 13 of the Central Societies Registration Act, 1860, in the context of its statutory language and confined its operation to disputes arising during winding up. It cannot be mechanically applied to the Rajasthan enactment, particularly in view of the subsequent authoritative interpretation of proviso (i) by this Court in ***Shri Bhagwati Prasad (supra)*** and ***Ishwar Prasad Khandelwal (supra)***, wherein it has been held that the proviso operates independently of the main provision concerning dissolution and winding up. Similarly, another decision in ***Rajesh Vijayvergiya (supra)***, relied upon by the petitioners, cannot prevail over the subsequent authoritative interpretation of the very statutory provision by this Court in ***Shri Bhagwati Prasad (supra)***, as reaffirmed in the review proceedings ***Ishwar Prasad Khandelwal (supra)***.

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59. It is, thus, settled that disputes amongst members and the governing body concerning the affairs of a society, except those falling within the statutory exception, are required to be adjudicated by the principal Court of original civil jurisdiction of the district in which the principal office of the Society is situated. The expression "shall be referred" employed in proviso (i) is mandatory and leaves no discretion with an ordinary Civil Court to retain a suit falling within its ambit.

60. In the present case, the principal office of the Society is admittedly situated at M-80, Mahesh Colony, Tonk Phatak, Jaipur. Consequently, the competent forum under proviso (i) to Section 13(1) of the Act of 1958 is the principal Court of original civil jurisdiction, namely, the District Court, Jaipur Metropolitan-I, and not the Court of Additional Senior Civil Judge No.3, Jaipur Metropolitan-I, Jaipur. The jurisdiction of Civil Courts under Section 9 CPC is subject to statutory exclusion, and where a special enactment prescribes a particular forum for adjudication of a specified class of disputes, other Courts must yield to that mandate. The principle laid down by the Hon'ble Supreme Court in ***Kiran Singh & Ors. v. Chaman Paswan & Ors.*** reported in ***AIR 1954 SC 340***, that jurisdiction is fundamental to the authority of a Court and a decree passed without jurisdiction is a nullity, reinforces this position.

61. Order VII Rule 10(1) CPC mandates return of the plaint, at any stage of the suit, for presentation before the Court in which it ought to have been instituted. Once it is found that the

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suit falls within the jurisdiction of another Court, its return is a statutory consequence and not a matter of discretion.

62. In view of the foregoing discussion, this Court is of the considered opinion that the learned trial Court committed a patent jurisdictional error in rejecting the application under Order VII Rule 10 CPC. Having correctly noticed that the dispute concerns the constitution of the Managing Committee, rights of office-bearers and administration and control of the Society, it failed to apply the mandatory provisions of proviso (i) to Section 13(1) of the Act of 1958. Its reliance upon the alleged unanimous approval of the resolutions dated 21.08.2026 to attract proviso (ii) is contrary to the statutory language and the authoritative interpretation thereof by this Court. The impugned order, therefore, suffers from a manifest error of law resulting in continuation of proceedings before a Court lacking jurisdiction under the special enactment. Interference under Article 227 of the Constitution of India is, accordingly, warranted to ensure that the dispute is adjudicated by the statutorily designated competent Court.

63. Consequently, the writ petition is allowed. The order dated 18.11.2026 passed by the learned Additional Senior Civil Judge and Additional Chief Judicial Magistrate No.3, Jaipur Metropolitan-I, Jaipur, in Civil Suit No.129/2026 is quashed and set aside. The application preferred by the petitioners under Order VII Rule 10 read with Section 151 CPC is allowed. The learned trial Court is directed to return the plaint to the plaintiff for presentation before the competent principal Court of original civil

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jurisdiction of the district in which the principal office of the Society is situated, in accordance with proviso (i) to Section 13(1) of the Act of 1958.

64. It is clarified that this Court has not expressed any opinion on the merits of the suit. All questions involved therein shall remain open for adjudication by the competent Court in accordance with law, uninfluenced by any observation made herein beyond the determination of the jurisdictional issue.

65. The parties shall be at liberty to seek appropriate interim protection before the competent Court, which shall consider the same independently in accordance with law. Any interim arrangement operating pursuant to orders passed in the connected proceedings shall remain subject to the orders of the competent Court.

66. Pending application(s), if any, also stand(s) disposed of.

(ANAND SHARMA),J

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