

CIVIL APPLICATION NO.1865 OF 2015

- 1 Kakad House Co-operative Housing Society Limited,
Kakad House, 11 New Marine Lines,
Mumbai – 400 020
- 2 Smt. Kala Chandiramani (since deceased)
through her heir
and legal representative
Smt. Rukmani Ramchand Malkani,
having her address as residing at
13/3, Marine House,
5 New Marine Lines,
Mumbai – 400 020.
- 3 The Deputy Registrar of Co-op.
Societies, 'A' Ward,
Mumbai – 400 001
- 4 The Divisional Joint Registrar,
of Co-op. Societies,
Mumbai Division, Mumbai

5 Shri. R.C. Iyer,
Principal Secretary (Co-operation)
Co-operation & Textile Department,
Mantralaya, Annexe,
Mumbai – 400 032. Respondents

Mr. Surel Shah i/by Mr. N.K. Mudnaney, Advocate for the
Petitioner.

Mr. Anuj Narula, Mr. A.W. Narote alongwith Mr. Bhupesh
Dhumathkar i/by Jhangiani Narula & Associates for Respondent
no.2.

Mrs. Vaishali S. Nimbalkar, AGP for Respondents no. 3 to 5.

Coram : **Smt. R.P. SondurBaldota, J.**
Date : 29th July, 2016.

JUDGMENT :

1 The dispute represented in this petition is essentially
between the petitioner and original respondent no.2 (Smt. Kala)
over the Membership of respondent no.1- Society in respect of Flat
no.A-4 in the building of Kakad house. During the pendency of the
petition, Smt. Kala expired and her legal representative has been
brought on record.

2 The building of Kakad house at 11, New Marine Lines,
Mumbai was formerly known as Fazalbhoj House and was owned
by a Trust. It has 26 flats and 51 shops let out to different persons.
In the year 1981, the petitioner purchased the building alongwith

attornment of the existing tenancies. Smt. Kala was one of the tenants in the building. The tenants were asked to pay rent to the petitioner. In the year, 1987, the petitioner terminated tenancy of Smt. Kala in respect of Flat no.A-4 and filed a suit for her eviction being RAE Suit No.1580/5073/87 in the Court of Small Causes at Bombay. By the judgment and order, dtd. 9th August, 2011 the suit is decreed. Smt. Kala has challenged the decree of eviction by preferring an appeal, being Appeal No. 50 of 2011 which is pending before the Division Bench of the Court of Small Causes Court at Bombay for consideration.

3 In April, 1989, respondent no.1-Society was formed. Those tenants on the property who purchased their premises from the petitioner were enrolled as Members of respondent no.1. Because of the eviction suit filed against her, Flat no.A-4 was not sold to Smt. Kala and as such, she was not entitled to be a member of respondent no.1-society. Despite the fact, towards the end of the year 1989, she applied for Membership of respondent no.1. Her application was rejected and the rejection was communicated to her by the letter dtd. 3rd November, 1989 stating following reasons.

“You write that Fazalbhoy House Tenants' Association has been converted and registered as a Co-operative Housing Society Ltd. This is not correct. Kakad House Co-operative Housing Society Ltd. is an independent body and not formed out of the Fazalbhoy House Tenants' Association.

You write that you are ready and willing to pay the cost of your said flat of which you are the tenant. The society is not in a position to sell to you any flat in the building. All the present members of the society have purchased their flats/units from Kakad Housing Corporation. The Society cannot admit you as a member nor allot to you any shares. Your cheque for Rs.251/- together with the application form forwarded by you is returned herewith.”

4 In the year 1990, Smt. Kala filed an appeal under Section 23 of the Maharashtra Co-operative Societies Act, 1960 (“The Societies Act”) before the Deputy Registrar of Co-operative Societies against respondent no.1 alone for it's membership which was allowed by respondent no. 3 by the order dtd. 20th September, 1991. Being aggrieved by the order, respondent no.1 and the petitioner filed separate revision applications under Section 154 of the Co-operative Societies Act being Revision Application No.199 of 1991 and Revision Application No.200 of 1991 respectively before respondent no.4, the Divisional Joint Registrar of Co-operative Societies. The revision applications came to be allowed by the order dtd.28th July, 1994 and the order of the Deputy Registrar granting membership to Smt. Kala was set aside. Smt. Kala then filed second revision application before Respondent no.5, the Principal Secretary (Co-operation), Co-operation and Textile Department of the State of Maharashtra. He allowed the second revision by his order dtd. 8th June, 1995 and directed

admission of Smt. Kala as a Member of respondent no.1 in respect of Flat No.A-4 on payment unspecified amount i.e. “an amount to the Society which is similar to the amount already paid by other members for the same area”. In the order, he has observed that registration of respondent no.1, Society was obtained by fraud and mis-representation and directed that, if Smt. Kala was not admitted as Member by respondent no.1 within two months, the Joint Registrar may initiate action for de-registration of respondent no.1.

5 Being aggrieved by the order, the petitioner has approached this Court to challenge the same on various grounds. It contends that revision application filed by Smt. Kala by resorting to Section 154 of the Societies Act, was not maintainable. The order of directions given by respondent no.5 are beyond the scope of Section 23 of the Societies Act and respondent no.5 has acted in excess of the jurisdiction vested in him. He has acted with material irregularity by granting relief to Smt. Kala beyond what she had sought for in her Revision Application. Also, respondent no.5 was in error in going into the question of registration of respondent no.1, Society. It is contended by the petitioner that, it being a Member and allottee of Flat, A-4, Smt. Kala could not be enrolled as a Member in respect of the same Flat. It contents that resort to Section 154 of the Societies Act by Smt. Kala to file revision application was not correct. Hence, her revision application was not maintainable. Next, in passing the impugned

order, respondent no.5 acted in excess of the jurisdiction vested in him. He has granted relief to Smt. Kala beyond what was sought by her. Besides the petitioner already being a member of the society in respect of Flat No. A-4, Smt. Kala could not have been enrolled as a member in respect of the same flat. The directions as given by him were also beyond the scope of Section 23 of the Societies Act. Respondent no.5 erred in going into the question of registration of respondent no.1, Society.

6 A few basic undisputed facts are that Smt. Kala was the tenant in respect of flat no. A-4 of the petitioner. A competent Court i.e. the Court of Small Causes has decreed the eviction suit filed by the petitioner against her. Her appeal to challenge the decree of eviction is yet to be decided. Chapter VII of the Bye-Laws of respondent no.1 provides for “Members, their Rights, Responsibilities and Liabilities”. One of the conditions for Membership set up in Bye-Law no.19 is that the member has sent alongwith the application for Membership, a certified copy of the agreement entered into with the Promoter (Builder) under Section 4 of the Maharashtra Ownership Flats (Regulations of the Promotion of Construction, Sale, Management and Transfer) Act, 1964 (“Ownership Flats Act” for short). The petitioner is the Promoter of respondent no.1. There was no agreement for purchase of the premises entered into between the petitioner and Smt. Kala. As such as per the Bye-Laws of respondent no.1, Smt. Kala was not eligible to be a member of respondent no.1.

7 The first order in the matter of grant of membership of respondent no.1 is on the appeal filed by Smt. Kala under Section 23 of the Ownership Flats Act. Respondent no.3, while passing that order is seen to have been unduly impressed by the fact that the appellant before him was an old woman. In fact that is the only reason given by him in his order dtd. 20th September, 1991 for allowing the appeal. The reason reads as under :

“In the present case, the old lady tenant seems to have certain differences with the landlord, the recourse to which is reported to have been sought before competent legal authority. It seems that the lady tenant had offered to perform her part, like other tenants, for becoming the member of the society. It could have been a gesture respecting the Co-operative Principles in spirit and ideology, had the society allowed her to join the scheme of Co-operative Housing Society at the time of registration itself. Even though, Society argues that it cannot allow the Appellant to be admitted as its member for the want of legal consequence, and even though apparently the arguments sound logical, it does not convince the cry of the old lady who for the want of technicalities of law is being denied the enjoyment of the right which she otherwise claims to be entitled to and which her fellow members have been offered to enjoy. I can see vividly, though not on the scene, that the formation of the Co-operative Housing Society had the motivation of the original landlord. The tenant members who have been shown to have joined the scheme after having had the Contract of Sale with Landlord, done so at the offer of the Landlord.

Now, the Co-operative Housing Society has replaced the Landlord. But, in the process, I see the convincing discrimination which the Appellant received, thus casting the gloomy shadows over the cherished Co-operative Spirit”.

The order does not even touch upon the merits of the contentions of the parties. There is no definite finding given on the eligibility of Smt. Kala to be a member of respondent no.1. It had been specifically contended in the reply by respondent no.1 to the appeal that, Flat No.A/4 in respect of which Smt. Kala desired membership is owned not by the Society but by the petitioner herein. Therefore, the petitioner is the member of the Society in respect thereof. Despite this defence, no notice was issued to the petitioner and it was not heard.

8 The order of respondent no.4 on the revisions preferred by the petitioner and respondent no.1 takes into consideration all the contentions of the parties, factual as well as legal. He has held that the essential requirement for a person to become a member of the society in respect of a flat occupied by the tenants is that the tenant must purchase the flat and the landlord must sell it. If there is no agreement of sale of flat by the landlord to the tenant, then the tenant cannot become a full-fledged member of the society. If the tenant is allowed to become a full-fledged member of the society merely by filing an Appeal under Section 23 of the Societies Act, a chaotic position would arise

whereby such a tenant, without purchasing such a flat from the landlord and without paying any valuable consideration therefor to the Landlord, can enjoy the right of occupation which is analogous to the ownership right. Such a situation cannot be allowed to exist. He has further observed that the rights of Smt. Kala as a tenant are fully protected by the Bombay Rents, Hotel and Lodging House Rates Control Act. If a tenant is permitted to be member of the Society in such manner, it would amount to bestowing upon the tenant ownership rights of the flat and divesting the owner of the flat his right of ownership without any consideration therefor. With these reasons, he allowed the revisions and dismissed the appeal of Smt. Kala.

9 As already mentioned hereinabove, Smt. Kala filed second Revision Application under the same provision i.e. under Section 154 of Maharashtra Co-operative Societies Act against the order of respondent no.4 to the office of the Minister to State for Co-operation. That application was forwarded to the Principal Secretary (Co-operation), Co-operation and Textiles Department and was heard by the Principal Secretary. There it was sought to be contended for the first time on behalf of Smt. Kala that the circular dtd. 2Nd May, 1980 issued by the Agricultural Co-operation Department lays down guidelines in respect of registration of Co-operative Societies of different categories and that circular has the effect of policy directives on the part of the State Government. As such there could be no registration of the

society contrary to the directives. It was contended that in view of that circular, it was necessary for the Chief Promoter to obtain applications for membership from all the tenants whether occupiers or not and no outsiders could be allowed to join as a member of the Society even if there are tenants, who are not willing to join the proposed society. It was contended that the petitioner could not have been described either as Promoter or Builder merely because the record as well as the agreement between the petitioner and the tenants describes it as a builder. In the circumstances, the provisions of the Ownership Flats Act did not apply. In view of this submission, according to respondent no.5, the first point that arose for consideration in the revision application was whether the provisions of Ownership Flats Act are attracted to the facts of the case and the second was whether the registration of the society allowed by respondent no. 3 was correct. By making reference to Section 2(c) of the Ownership Flats Act, respondent no. 5 has held that the provisions of that Act cannot apply to an old building where society of tenants in building was to be formed. It applies only to a new building to be constructed within the Island city of Bombay after demolition of the old building and a builder-promoter cannot sell the premises to anyone he likes. Respondent no.5 had then called for the original record relating to registration of respondent no.1 from the Office of respondent no.3 in order to verify whether the registration of the society had taken place as per the instructions contained in the Government Circular dtd. 2nd May, 1980 and whether in

compliance of the circular, appropriate form for registration had been used. This exercise was done by respondent no.5 despite the fact that neither party had raised any question as regards registration of respondent no.1-society. In fact, such question could not have been raised by Smt. Kala herself because the same would have been self-defeating for her. Since her application was being inducted as a member of society, she could not have challenged the very existence of the society. Nevertheless, respondent no.5 went through the record to arrive at the conclusion that the registration of respondent no.1 was not correct and that it was secured by fraudulent means and false declarations.

10 The reasons set out for the above startling finding is that the application by respondent no.1 for its registration could not have been in Form “Y” but ought to have been in Form “X”. Form “X” is for “open plot type co-operative housing society” and Form “Y” relates to “Builder, Promoter Society” under the provisions of the Ownership Flats Act. Further there is no specific form prescribed in the Circular for a Housing Society formed of the tenants in a private building. But still, respondent no.5 holds that a wrong form had been used by respondent no.1 for registration. He next refers to the contents of the form filed by respondent no.1 and the affidavit given by the builder-promoter. The affidavit contains a declaration that the unsold units mentioned in the statement attached to the affidavit are in his

possession and are under lock and key. Further, that the possession will not be given except in the manner provided in the Ownership Flats Act. Respondent no. 5 notes that what is accompanying the affidavit is a typed list of sold and unsold premises signed by the representative of the petitioner and not by the Chief Promoter. The list showed Flat No.A-4 as an unsold flat. It is to be noted that the Chief Promoter is a partner of the petitioner, who had signed both the documents himself. Because Flat no. A-4 is not under lock and key of the petitioner, it's statement was held to be a false statement by respondent no.5. to arrive at the conclusion that respondent no.1 has been fraudulently registered. He has also aired possibility of misleading statements relating to the other tenants also, but without taking the trouble of verifying the same. He then refers to certified copy of the agreement between the petitioner and the original owner, Fazalbhoys, who held the property as trustees. He also notes that there is no reference in the agreement between the two as also the agreements for purchases with the other tenants of any new construction which would attract the provisions of the Ownership Flats Act.

11 Despite the above finding, which is serious in nature, respondent no. 5 does not take any action as regards the registration of the society but has used the finding as a threat to respondent no.1 to accept Smt. Kala as a Member of the society. By the order, he has directed that if the society fails to accept Smt.

Kala as a Member, the Joint Registrar may initiate proceedings under Section 21-A of the Co-operative Societies Act to de-register respondent no.1 by taking into account the observations in his order. His second surprising finding in the order is that the petitioner who is undoubtedly the landlord of Smt. Kala could not have been deemed to be validly registered as a Member of respondent no.1 and it's registration as a Member is deemed to be a nullity because the registration of respondent no.1 has been secured by fraud. With that finding, he directs acceptance of Smt. Kala as a Member because she is willing to become a Member on payment of "appropriate consideration being the same as accepted from other members holding similar area".

12 Mr. Surel Shah, the learned Advocate appearing for the petitioner submits that the Revision Application filed by Smt. Kala before respondent no.5 was not maintainable in law since the second Revision Application under Section 154 of the Maharashtra Co-operative Societies Act is not maintainable. He refers to the direct decision of the Full Bench of our High Court in **Shireen Sami Gadiali and Another Vs. Spenta Co-op. Hsg. Soc. Ltd. and Ors. reported in 2011 (3) Mh.L.J. page 486** in support. On a reference made to it, of the question, whether the power of revision under sub-section (1) of Section 154 of Maharashtra Co-operative Societies Act can be exercised only once and cannot be exercised twice over, the Full Bench, has held that revisional jurisdiction thereunder can be exercised only once. The Revisional

jurisdiction conferred on the State Government and the Registrar is not concurrent. Sub-section (2) of Section 154 lays down that the State Government has revisional jurisdiction against the decisions or orders passed by the Registrar, Additional Registrar or Joint Registrar, whereas, the Registrar has revisional jurisdiction in relation to the decisions or orders passed by officers subordinate to him. Thus, the State Government does not have revisional jurisdiction in relation to the decisions or orders passed by officers who are subordinate to the Registrar, Additional Registrar or Joint Registrar and the Registrar does not have any revisional jurisdiction in relation to the orders passed by the Additional Registrar or Joint Registrar.

13 It is thus seen that, there is only one revision application maintained under Section 154 of the Co-operative Societies Act. It is either to the State of Maharashtra against the order of the Registrar, Additional Registrar and Joint Registrar or it is to the Registrar against the order passed by officers subordinate to him. Thus, the revisional jurisdiction conferred by Section 154 on the State Government and the Registrar is in two separate compartments. It does not provide for a revision to the State Government against the order passed by the Joint Registrar. Mr. Narula, the learned Advocate appearing for Smt. Kale submits that the second Revision Application ought to be held as maintainable in view of the decision of the Apex Court in the case of **Ishwar Singh Versus. State of Rajasthan and Others**,

reported in (2005) 2 Supreme Court Cases page 334.

According to him, this decision was not cited before the Full Bench while considering the case of *Spenta Co-op. Hsg. Soc. Ltd* (supra). Therefore, that decision of the Full Bench, must be held to be *per-in curium*. The Apex Court in *Ishwar Singh's* case (supra) was considering revisional jurisdiction under Section 128 of Rajasthan Co-operative Societies Act, 1965 and has held that the provisions under the Rajasthan Co-operative Societies Act, provides for an appeal to the Government against an order passed by the Registrar. If an order is passed by any other person, the appeal lies to the Registrar. Comparative reading of Section 128 of Rajasthan Co-operative Societies Act and Section 154 of the Maharashtra Co-operative Societies Act would show that the same are not *pari-materia*. There is a distinct difference between the two. The starting portion of Section 128 of the Rajasthan Co-operative Societies Act is that “the State Government and the Registrar may call for and examine the record”, whereas, Section 154 of the Maharashtra Co-operative Societies Act starts by saying “the State Government or the Registrar, suo-moto or on an application may call for and examine the record”. The difference in the language of use of “or” and not “and” would only mean that the revisional power under Section 154 is used to be exercised by either of the two i.e. the State Government or the Registrar and once it is exercised by one of them, it stands exhausted. In any case, the decision cited by Mr. Narula refers to an appeal provided under Section 124(2) of the Rajasthan Co-operative Societies Act

to the State Government against an order of the Registrar. There is no such provision in the Maharashtra Co-operative Societies Act. Therefore, the decision cited by Mr. Narula, cannot be said to be relevant to the facts of the present proceedings. Applying the decision of the Full Bench of our High Court, it must be held that, the Revision Application filed by Smt. Kale was not maintainable.

14 The second argument of Mr. Narula on the objection of maintainability of the second Revision Application is that, the petitioner cannot be permitted to raise the same for the first time before this Court. He argues that, this contention was not taken by the petitioner before respondent no.5 and therefore it cannot be permitted to be raised before this Court. In this connection, he relies upon decision of Single Judge of this Court in the case of **Ramesh T. Gopalani Vs. Janata Sahakari Bank Ltd., Kalyan reported in 2000 (3) Mh.L.J. page 115**, where the petitioner was not permitted to raise the question of maintainability of the Revision Application at a belated stage. In the facts in that case, there was excessive delay in raising the issue of maintainability of the second Revision Application which is not the situation in the case on hand. Therefore, there is no merit in the second argument.

15 Since the Revision Application to the State of Maharashtra against an order passed by the Joint Registrar in his revisional jurisdiction was not maintainable, the order impugned

in the petition is required to be set aside on that ground alone. In any case, even on the merits of the application the petitioner herein must succeed. However, before touching upon the merits of the matter, it is necessary to consider an application filed on behalf of Smt. Kala which has been directed to be heard alongwith the main petition.

16 Almost about 20 years after filing of the present petition, Smt. Kala filed a Civil Application being Civil Application No.1865 of 2015 seeking a direction to the petitioner and respondent no.1 to furnish some documents and disclose some information, a list whereof is stated at para 25 of the application. Bare perusal of the list is sufficient to note that the information sought is irrelevant to the issue raised by Smt. Kala in her appeal under Section 23 of the Maharashtra Co-operative Societies Act, which issue has been carried to this Court. The information sought is about formation of respondent no.1, registration of respondent no.1, occupants of the different premises in Fazalbhoj House building and the payments received from different tenants at the time of registration of respondent no.1. None of these matters are relevant for finding out the eligibility of Smt. Kala for becoming member of respondent no.1. Hence, the application must be dismissed as wholly misconceived. It is obvious that the application is nothing but a further attempt on the part of Smt. Kala in securing membership of respondent no.1 anyhow though there is a decree of eviction against her.

17 Mr. Shah refers to the decision of Single Judge of this Court in **Shantiniketan Co-operative Housing Society Ltd, through its Chairman Vs. Shivkant, the Assistant Registrar and the Divisional Joint Registrar, reported in 2015 (5) All.M.R. page 2013** to submit that the bye-laws of respondent no.1 which prescribes qualification of its membership cannot be given a go-bye despite introduction of the concept of “open membership”. Therefore, it was incumbent upon respondent no.5 to take into account the specific provisions made in the bye-laws of respondent no.1 as regards the eligibility of its members. The decision cited by Mr. Shah is based on the decision of the Apex Court in the case of **Zorastrian Co-operative Housing Society Ltd V/s. District Registrar, Co-operative Societies (Urban) reported in (2005) 5 Supreme Court Cases page 632**. By that decision, the Apex Court has held that the concept of “open membership” as envisaged by Section 24 of the Gujarat Co-operative Societies Act is not absolute on the very wording of the said Section. The bye-laws are not given a go-bye inspite of the introduction of the concept of “open membership” as indicated by the heading of the section. If the relevant bye-laws of the Society places any restriction on a person getting admitted to a Co-operative Society, that bye-law would be operative and no person or aspiring member can be heard to say that he will not be bound by that bye-law which prescribes a qualification for his membership. These, observations of the Apex Court have been extended, by the decision cited, to the relevant provision of Section

23(1) of the Societies Act. The decision finds the provision of Section 24 of the Gujarat Co-operative Societies Act, is *pari-materia* Section 23(1) of the Societies Act. The marginal note of the two sections is also same i.e. “open membership”. Sub-section (1) of Section 23 of the Societies Act, lays down that, no Society shall without sufficient cause refuse admission of membership to any person duly qualified therefor under the provisions of the Act and the Rules and the bye-laws of the Society. The very inclusion of the bye-laws in the provision of Section 23(1) speaks for itself. Consequently, respondent no.5 was bound to ensure that each criteria laid down in the bye-law was fulfilled by Smt. Kala to direct respondent no.1 to enroll her as its member.

18 The conditions of membership provided for the bye-laws of respondent no.1 are at Bye-law no.19. The provisions thereunder relevant for the present purposes read as under :-

Conditions for individuals desiring to be members of the society.

“(C) Conditions for Membership

19. An individual who is eligible to be a member and who has applied for membership of the society in the prescribed form, may be admitted as member by the Committee on complying with the following conditions :-

(i) he has fully paid the value of at least five shares of the society, along with his application for membership;

(ii) he has paid the entrance fee of Rs.10, along with the application for membership.

(iii) he has given in the application, the particulars in regard to any house, plot or flat owned by him or any any of the members of his family, anywhere in the area of operation of the society;

(iv).....

(v).....

(vi).....

(vii) he has sent, along with the application for membership of the Society, a certified copy of the agreement, entered into by him with the Promoter (Builder) under Section 4 of the Ownership Flats Act.

(viii).....

Note : The conditions at (iii), (iv), (v), (vi) and (vii) above shall not be applicable to the Promoter (Builder), applying for membership of the society, in respect of the unsold flats.

19 The undisputed fact of the case is that, the erstwhile owners, Fazalbouy Trust sold the property to the petitioner and attorned all the tenants to the petitioner. Consequently, all the tenants on the property including Smt. Kala became the tenants of the petitioner. Later, the petitioner decided to sell the respective demised premises to the tenants and form a Society of such purchasers. Accordingly, all the tenants, except Smt. Kala, purchased the demised premises from the petitioner. The

premises demised to Smt. Kala was not sold to her because of the eviction proceedings pending in the Court of Small Causes which have been concluded in a decree. As such, the right of Smt. Kala even as a tenant has subsequently come to an end. No doubt, her appeal preferred against the decree is pending. However, that appeal is yet to be decided. Until then, the eviction decree must be given its due effect in law. Since Smt. Kala had no right of ownership to Flat No.A-4 in her occupation, the petitioner had rightly refused to sell the premises to her to enable her to become a member of respondent no.1. The petitioner as the owner and landlord of Smt. Kala is alone entitled to be a member of respondent no.1. Smt. Kala had not fulfilled eligibility Condition No. 19(vii) of the bye-laws i.e. sending along with her application, a certified copy of agreement for purchase of the flat. This condition has apparently been brushed aside by respondent no.5 in the impugned order with an observation that Smt. Kala was willing to become a member on payment of appropriate consideration being the same as accepted from the other members, holding similar area. Readiness to purchase the flat is not same as purchase of the flat so as to satisfy Condition No.96. In any case, respondent no.5 could not have decided the quantum of the consideration payable by Smt. Kala to the owner of the flat for purchasing the same. The petitioner alone could not have decided the same. Further, there could not have been a direction to respondent no.1 to receive the amount of consideration when it is not even the claim of respondent no.1 that, it is the owner of Flat

No.A-4. According to it, the petitioner is the owner of Flat no.A-4. In the circumstances, the direction to respondent no.1 to accept the unspecified amount from Smt. Kala to admit her as a member cannot be justified in law. It is patent that, respondent no.5 has exceeded the revisional jurisdiction in giving several directions by the impugned order. Therefore the same cannot be sustained.

20. For the reasons stated above, the petition is allowed with costs, in terms of prayer clause (a). The Civil Application is dismissed. The order shall become effective on expiry of four weeks.

(Smt. R.P. SondurBaldota, J)