



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO. 186 OF 2025
IN
WRIT PETITION NO. 9190 OF 2018**

Vinayak Adarsha Co-operative Housing Society Ltd., Shahnoorwadi,
Tilak Nagar, Aurangabad.
Dist. Aurangabad,
Through its Secretary,
Atul s/o. Shashikant Chapalgaonkar,
Age. 55 years, Occ. Business.

.. Applicant

VERSUS

1. Smt. Indumati Laxminarayan Wadkar
Age. Major, Occ. Household & Business,
R/o. 7, Ketki Apartment, Adarsh Colony,
Garkheda Parisar, Aurangabad,
Dist. Aurangabad.
 2. Laxminarayan s/o. Mahantappa Wadkar,
Age. Major, Occ. Business,
R/o. As above.
 3. Taluka Deputy Registrar,
Co-operative Societies,
Laxmi Apartment, Opp. Motiwala Complex,
Nageshwarwadi, Aurangabad,
Tq. & Dist. Aurangabad.
- .. Respondents

Mr. V.D. Sapkal, Sr. Advocate i/b. Mr. S.R. Sapkal a/w. Mr. Amit Gadekar,
Advocate for the applicant.
Mr. P.R. Katneshwarkar, Sr. Advocate i/b. Mr. Mahesh Kale, Advocate for
respondent Nos. 1 and 2.
Ms. R.R.Tandale, AGP for respondent Nos. 3 and 4.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 10.11.2025
PRONOUNCED ON : 19.12.2025

ORDER :-

01. This Review Application is filed seeking review of judgment and order dated 04.09.2023 passed by this Court in Writ Petition No. 9190 of 2018. This Court by way of said judgment dismissed the Writ Petition of present applicant. The petition was filed challenging an order passed by the Divisional Joint Registrar, confirming an order passed by the Taluka Dy. Registrar, Co-operative Societies i.e. respondent No.3 herein. The respondent was alleged to have raised construction of a flatted building on the plot allotted to them. It was contention of the petitioner that in view of the amended bye-laws, it is not permitted to construct a flatted building or apartment on the plot allotted by the Society to its Member. The alleged construction is in violation of the bye-laws.

02. The Authorities on going through the material held that bye-laws on which the petitioner/present applicant seeks reliance is not duly inserted bye-law and therefore is not a part of bye-laws. The alleged bye-law puts restriction upon Members to raise flatted building or

apartment. This Court also perused the order passed by the learned Joint Registrar, holding that the alleged bye-law No. 165(A) is not a part of original bye-laws as said amendment was not approved by the Authorities and the restriction put by the said bye-law is not applicable in the present case.

03. Mr. Sapkal, learned Sr. Advocate vehemently argued that there is an error apparent on the face of record, as this Court has wrongly observed that the alleged bye-law is not there in the bye-laws. He submits that the observations in para No. 11 of the bye-law No. 165(A) cannot be said to be part of bye-laws as there is no seal and signature of the Registrar on the said clarification. He submits that this observation is factually incorrect. The Authority while approving bye-laws has specifically approved bye-laws as were before the Authorities. There was no question of insertion of any bye-law No. 165(A) thereafter. He submits that the observation of this Court that the signature of the approving Authority appearing though is not after the bye-law No. 165(A), still wording of the order would show that the bye-laws as placed before the Authorities were approved in its entirety. If the said bye-law is considered to be integral part of the bye-laws, it would change the judgment of this Court. It is further submitted that in the order dated

28.05.2015, wording clearly appears that the bye-laws are approved along with Annexures. He pointed out that the Annexure was there being Annexure No.4. There is specific endorsement that bye-laws were from 1 to 165(A) before the Authority and on the wording that copy of new bye-law annexed bears signature of approval below said wording. He produced on record original bye-laws before this Court. He, therefore, submits that a case is made out to review the order. His further argument is that on all pages of bye-laws, no signature of the Authority is necessary.

04. Mr. Katneshwarkar, learned Sr. Advocate for the respondent submits that this very argument was advanced when the petition was argued. This Court has rightly observed that under Article 227 of the Constitution of India, power of this Court is restricted. This Court has rightly observed that there is no endorsement of the Authorities below the alleged bye-law 165(A) after its approval. He relies upon judgment in the case of **Malleeswari Vs. K. Suguna & Anr., 2025 SCC OnLine SC 1927.**

05. This Court has seen the judgment and order. This matter is clearly a matter involving factual aspects. When the petition was argued,

original bye-laws were not placed before this Court. It does appear that there is an endorsement showing that new bye-law is approved and registered on the Annexure-4. However, on the communication dated 28.05.2015 to the Chairman/Secretary of the petitioner, again wording appears that standard bye-laws 1 to 165 are sanctioned. Further endorsement shows that the bye-law shown in Annexure-4 is also approved. In the bye-laws, however, such endorsement of approval of bye-law appears only after bye-law No. 165. There is one more bye-law 165-A, which only shows that there would be grievance redressal and advise committee of three members to be appointed in the general body meeting. The powers of Registrar are given. Thereafter, disputes to be taken to the Cooperative Court. At last, there are signatures of the Management Committee on page No. 74(2). Alleged bye-law 165(A) is pasted on page No. 74(3). However, below that there is no again signature of approval by the Authority. This aspect is specifically considered by this Court in the judgment of **Malleeswari (supra)**. The Hon'ble Supreme Court in Paras 15 and 17 observed as under :-

"15. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. The power of review is different from 8 appellate power and is subject to the following limitations to maintain the finality of judicial decisions:

15.1 The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC.

15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court.

15.3 In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be an appeal in disguise.

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power.

15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors.

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17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.

17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record.⁸ Such an error is a patent error and not a mere wrong decision. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.

17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories."

06. This Court thus has to see whether any case is made out under para 17 of the said Judgment. This Court does not find that any of the ground is made out to entertain and allow this review application.

This Court also further found that the impugned order is dated 04.09.2023. The review is filed on 29.08.2024 i.e. after more than a year. There was delay while filing this application. Same was condoned on 08.08.2025. Respondent Nos.1 and 2 produced on record photographs showing position of the construction. Now, slab of seventh floor is complete and brick work of sixth floor is also complete. The objection is, therefore, that the petitioner ought to have moved this Court immediately, if at all review was to be filed. The delay in filing review has also caused now serious prejudice since now the construction is almost complete. This Court also needs to consider the same.

07. Considering above, no case is made out to entertain Review Application. The Review Application, therefore, deserves to be dismissed. The Review Application is dismissed with no order as to costs.

[KISHORE C. SANT, J.]