



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.11460 OF 2025
IN
WRIT PETITION NO.6686 OF 2025

Rajendra Gajraj Singh and Ors. ... Applicants
and
Kishor Dagdu Shirke and Ors. ... Petitioners
versus
Apex Grievance Redressal Committee and Ors. ... Respondents
WITH
INTERIM APPLICATION NO.11462 OF 2025
IN
WRIT PETITION NO.6718 OF 2025

Vijay Manohar Shirke @ Virendra
Vijay Shirke and Ors. ... Applicants
and
Lenzil Leo Fernandes and Ors. ... Petitioners
versus
Apex Grievance Redressal Committee and Ors. ... Respondents

Mr. Akash Rebello with Mr. Nadeem Sharma, Mr. Parag G. i/by Anil Wagh, for Applicants in IA No.11460 of 2025.

Mr. Rohaan Cama i/by Mr. Devendra Mishra, for Applicants in IA No.11462 of 2025.

Mr. Jagdish G. Aradwad (Reddy) with Mr. Abhijit Patil, Ms. Deepti Thorat for Respondent No.1 in both matters.

Mr. Vishwanath Patil with Mr. Akshay Naidu, Ms. Nidhi Chauhan, for Respondent Nos.2 and 3.

Mr. Sharan Jagtiani, Sr. Advocate with Mr. Shanay Shah, Ms. Shraddha Achaliya, Ms. Priya Chaubey i/by Ms. Sapna Raichure, for Respondent No.4.

Mr. S.L.Babar, AGP for State in WP No.6718 of 2025.

Ms. Savina R. Crasto, AGP for State in WP No.6718 of 2025.

Mr. Ravi Kant Purohit, for Respondent No.5 - Society.

CORAM: N.J.JAMADAR, J.

RESERVED ON : 8 OCTOBER 2025
PRONOUNCED ON : 24 DECEMBER 2025

ORDER :

1. These Applications are preferred to amend the Writ Petitions so as to incorporate additional grounds of challenge and add prayers.

2. In the facts of the case, the prayer for amendment in the Petitions is required to be considered in the backdrop of the previous proceedings and the orders passed therein. It is, therefore, necessary to note the facts in a little detail :

2.1 Pursuant to a LOI granted by the Slum Rehabilitation Authority (SRA) (R3), Nimesh Global Syndicate Builders and Developers (the Developer - R4) is developing an amalgamated slum rehabilitation scheme in respect of three societies, namely, Anand SRA Co-op. Hsg. Society Limited, Valmiki SRA Co-op. Hsg. Society Ltd. And New Hanuman SRA Co-op. Hsg. Soc. Ltd. Anand SRA and Valmiki SRA Societies are situated at Jogeshwari and New Hanuman SRA Society situated at Khar, Mumbai.

2.2 The Petitioners claimed to be members of New Hanuman Society (R5). New Hanuman Society (R5) is situated at CTS No.1084/A of Village Bandra, Mumbai. The land on which the society is situated is a government land.

2.3 SRA (R3) initiated suo-motu proceedings under Section 13(2) of the Maharashtra Slums Areas (Improvement, clearance and Redevelopment) Act, 1971 (the Slum Act, 1971) in respect of the abovenamed three societies, on account of the perceived inordinate delay in the implementation of the SR

Scheme, by an order dated 11 April 2022, the Chief Executive Officer, SRA, was persuaded to terminate the appointment of the Developer (R4) as a developer of SR scheme for New Hanuman (R5). The CEO, SRA also ordered the de-clubbing of the SR Scheme for New Hanuman Society (R5) from Anand and Valmiki SR Societies. Liberty was granted to New Hanuman (R5) to appoint a new developer of its choice in accordance with the rules, regulations and policy of the SRA.

2.4 Aggrieved by the aforesaid order, the Developer (R4) preferred an application before the Apex Grievance Redressal Committee (R1). By an order dated 11 July 2022, the AGRC (R1) quashed and set aside the order passed by the CEO, SRA, terminating the appointment of Nimesh (R4). The AGRC (R1), inter alia, directed the SRA (R3) to issue revised LOI and further necessary permissions for completion of balance rehab tenements and for speedy implementation of SR scheme for New Hanuman Society (R5).

2.5 Being aggrieved, New Hanuman Society (R5) preferred Writ Petition being, WP No.4795 of 2022, before this Court. By a judgment and order dated 7 July 2023, a learned Single Judge of this Court dismissed the said Writ Petition by imposing costs of Rs.50,000/-.

2.6 Few members of the New Hanuman Society (R5) preferred an application for review of the said judgment and order dated 7 July 2023. By an order dated 11 July 2024, the said Interim Application came to be

dismissed observing that, no case for review of the judgment relating to the challenge to the order passed by the AGRC was made out. The Court, however, clarified that if the Applicants substantive rights were prejudiced, it shall be open to the Applicants to approach the appropriate forum in accordance with law.

2.7 In the meanwhile, as the Petitioners refused to vacate their existing structures, by an order dated 15 March 2024, the Deputy Collector (Special Cell, SRA) passed an order directing the Petitioners and others to vacate their respective structures within a period of 30 days from the date of the said order, lest an action for eviction, as warranted under the provisions contained in Sections 33 and 38 of the Act, 1971, would be initiated.

2.8 An application was preferred against the said order before the AGRC (R1). By an order dated 6 May 2025, the AGRC upheld the order passed by the Deputy Collector (Special Cell, SRA), dated 15 March 2024.

3. Being aggrieved, the Petitioners initially preferred these Writ Petitions assailing the legality, propriety and correctness of the orders passed by the Deputy Collector, SRA dated 15 March 2024 and the order dated 6 May 2025 passed by the AGRC, affirming the order of eviction. Subsequently, pursuant to the liberty granted by the Division Bench by an order dated 10 June 2025 in WP Nos.6686 of 2025 and 6718 of 2025, the Petitioners were granted permission to amend the instant Petitions and, availing the said liberty, the

Petitioners have amended the Petitions to assail, inter alia, Notification dated 23 May 2022 passed by the SRA, LOI dated 2 August 2022 issued by the SRA, and, even Development Agreement dated 3 February 2010 executed in favour of Respondent No.4.

4. By filing the instant applications, the Petitioners seek to further amend the Petitions so as to seek following additional reliefs :

“B-1] That this Honourable Court may be pleased to quash and set aside the AGRC order dated 11.07.2022 passed in Slum Application No.100 of 2022 by holding the same as illegal, null, void, perverse, bad-in-law, and this Honourable Court may be pleased to restore the order dated 11.04.2022 passed by C.E.O. - SRA u/sec. 13(2) of the Slum Act, 1971 in the files of the SRA.

B3] That this Honourable Court be pleased to quash and set aside the L.O.I. dated 26.03.2024 issued by the SRA in relation to New Hanuman Nagar, SRA scheme by holding the same as not agreeable by the Petitioners and their Society, and being illegal, null, void, bad-in-law and perverse;”

5. In order to sustain the aforesaid reliefs, by the proposed amendment, the Petitioners seek to incorporate the additional grounds of challenge to the AGRC order dated 11 July 2022 on the ground that the AGRC and its four members were not appointed in accordance with the qualification criteria prescribed by the Rules, which were required to be framed under Section 34A (3) read with 46 of the Act, 1971; the absence of NOC from the MCZMA for

the development under the provisions of Environment (Protection) Act, 1986; inapplicability of the provisions contained in Regulation 9(6)(b) of the DCPR 2034, unjust usurpation of the benefits of the additional FSI under DCPR 2024 by the developer (R4); and, want of 51% individual consent for shifting the Petitioners to Jogeshwari (W), as per DCPR 2034.

6. The Applications were resisted by the developer (R4) by filing the affidavits in reply. The substance of the resistance putforth by the developer (R4) is that, by the proposed amendment, the Petitioners intend to completely alter the nature and character of the Petitions, in which legality and correctness of the eviction order passed under Sections 33 and 38 of the Act, 1971 is challenged. Surreptitiously, the Petitioners intend to reopen the issues which have been concluded by a judgment of this Court in WP No.4795 of 2022 dated 7 July 2023. The Petitioners who claim to be the members of New Hanuman Society (R5), have no independent right to challenge the said final judgment by introducing the amendments in the instant Petitions, as the challenge at the instance of New Hanuman Society was comprehensively dismissed. The proposed amendment is barred by the principles of res-judicata. The Applications have been preferred with a design to prolong the proceedings by raising the objections in the instant Petitions and thereby derail the development of the SR Scheme, which is causing great prejudice to the developer (R4).

7. In the backdrop of the aforesaid facts and pleadings, I have heard Mr. Akash Rebello, learned Counsel for the Petitioners-Applicants in WP No.6686 of 2025, Mr. Rohan Cama, learned Counsel for the Petitioners – Applicants in WP No.6718 of 2025, Mr. Jagdish Aradwad (Reddy), learned Counsel for Respondent No.1, Mr. Vishwanath Patil, learned Counsel for Respondent Nos.2 and 3, Mr. Sharan Jagtiani, learned Senior Advocate for Respondent No.4, Mr. Ravi Kant Purohit, learned Counsel for Respondent No.5 and Mr. Babar and Mrs. Savina Crasto, learned AGPs for the State, at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record and the orders passed by the Supreme Court and this Court, in various proceedings.

8. Mr. Rebello, learned Counsel for the Petitioners in WP No.6686 of 2025, would urge that the amendment in the Writ Petition is sought at a pre-admission stage. No prejudice would be caused to the Respondents if the proposed amendment is allowed as the Respondents would have an efficacious opportunity to contest the Petition and oppose the additional prayers sought to be incorporated. It was urged with a degree of vehemence that the slum dwellers have a right to be rehabilitated in Situ. The grounds which are sought to be incorporated by way of proposed amendment were not available to the Petitioners when the earlier proceedings were decided. Therefore, while dismissing the Review Application preferred by some of the

slum dwellers, this Court had clarified that, if the substantive rights of the applicants in the Review Application were affected, they were entitled to file appropriate proceedings before the appropriate forum. Availing the aforesaid liberty, the Petitioners have preferred these applications to incorporate the grounds which are essentially in amplification of the grounds which have been already raised.

9. Mr. Cama, learned Counsel for the Petitioners in WP No.6718 of 2025, while supplementing the submissions of Mr. Rebello, urged that, it is an elementary principle of law that while considering the application for amendment, the merits of the proposed amendment cannot be delved into. Thus, the substance of the objection on behalf of Respondent No.4 that the proposed amendment is barred by principle of res-judicata, and, therefore, the application be rejected, does not deserve to be considered. Whether the reliefs, sought to be incorporated by way of proposed amendment, are barred by principles of res-judicata, would be a matter for adjudication after the amendment is allowed.

10. In any event, Mr. Cama would urge, in the facts of the case, the judgment in WP No.4795 of 2022 dated 7 July 2023, does not operate as res-judicata as the grounds which are sought to be now raised were not available when the said petition was decided.

11. To buttress the aforesaid submissions, Mr. Cama placed reliance on the

judgment of the Supreme Court in the cases of **Sathyanath and Anr. V/s. Sarojamani¹, Pankaja and Anr. V/s. Yellappa (dead) by LRs and Ors.²**, a judgment of this Court in the case of **Mudra Salt and Chemical Industries V/s. Collector, Thane and Ors.³**, and an order passed by this Court in **Renu Balwant Maru V/s. Bhupendra D. Tank and Ors⁴**.

12. Per contra, Mr. Jagitani, the learned Senior Advocate, would submit that ordinarily an Application for amendment in Writ Petition particularly, at a pre-admission stage, is not opposed. However, in the case at hand, the Applications are actuated by a design to keep the issue of development of slum rehabilitation scheme entangled in litigation to the prejudice of not only the Developer (R4) but also the slum dwellers, who have vacated their structures. Thus motive behind the proposed amendment ought to enter the judicial determination.

13. Mr. Jagtiani submitted that, first and foremost, the Applicants have no independent right to assail the Lol and the order dated 11th July 2022 passed by the AGRC when the Petition filed by the New Hanuman Society (R5) was comprehensively dismissed with scathing observations. Mr. Jagtiani placed reliance on the judgment of the Supreme Court in the case of **Daman Singh**

1 2022 (7) SCC 644

2 (2004) 6 SCC 415

3 (2001) 3 Mah.L.J.151

4 IA(L) No.9590 of 2021 dt. 24 Oct. 2024

& Ors Vs State of Punjab & Ors.⁵, to lend support to the submission that a person's individuality is lost once he becomes a member of the cooperative society and, thereafter, he can only speak through the cooperative society.

14. Secondly, Petitioners being members of the new Hanuman Society (R5) are precluded from raising the challenge to the order of AGRC, on the principles of estoppel and constructive *res judicata* which are applicable even to writ petitions. Thirdly, Mr. Jagtiani would submit, the Petitioners cannot be permitted to draw mileage from the observations of the learned Single Judge in the order dated 11th July 2024 whereby, the Review Application also came to be dismissed. The observations that the Applicants therein could agitate their substantive rights in appropriate forum /Court as available to the Applicants, do not imply that liberty was granted to the Petitioners to challenge the order dated 11th July 2022 passed by the AGRC.

15. Mr. Jagtiani would further submit that, the boogie of subsequent developments, sought to be urged on behalf of the Applicants, is also without substance as the LOI dated 26th March 2024 is in continuation of the earlier LOI. Lastly, Mr. Jagtiani would urge, even the ground of the AGRC not having been properly constituted was raised before, and repelled by, the Supreme Court in SLP (C) No. 37895 of 2024 filed by the very Petitioners.

5 (1985) 2 SCC 670.

16. I have given careful consideration to the submissions canvassed across the bar and the material on record including the orders passed by the Supreme Court and this Court in various proceedings.

17. Ordinarily, all amendments which are necessary for the determination of real question in controversy between the parties are required to be permitted. The exercise of discretion to permit a party to amend the pleadings is controlled by two overarching principles. First, whether the amendment is necessary for the determination of real question in controversy between the parties. Second, the potentiality of prejudice to the adversary. Other considerations like, whether the amendment completely changes the nature and character of the proceeding, whether the relief sought to be incorporated by way of amendment is barred by law of limitation or whether there is any jurisdictional impediment in permitting the proposed amendment, also weigh in.

18. Invariably, the amendments at a pre-trial or pre-admission stage are liberally allowed. The submission on behalf of the Petitioners that, at this juncture, the Court is not required to delve into the merits of the proposed amendment is well merited. It is a cardinal principle of law that, at the stage of consideration of the Application for amendment the Court need not delve into the merits of the proposed amendment. A useful reference in this context can be made to the decision of the Supreme Court in the case of **Rajesh Kumar**

Aggarwal and Ors Vs K. K. Modi & Ors⁶ wherein the legal position was expounded as under:

“19. While considering whether an application for amendment should or should not be allowed, the court should not go into the correctness or falsity of the case in the amendment. Likewise, it should not record a finding on the merits of the amendment and the merits of the amendment sought to be incorporated by way of amendment are not to be adjudged at the stage of allowing the prayer for amendment. This cardinal principle has not been followed by the High Court in the instant case.”

19. In the case of **Mudra Salt and Chemical Industries (Supra)**, on which the reliance was placed by Mr. Cama, a learned Single Judge of this Court enunciated that it is well settled that while deciding the Application for amendment, merits of the amendment need not be and should not considered.

20. Keeping in view these principles, reverting to the facts of the case, it is imperative to note that the instant Applications for amendment are filed by few of the Petitioners in each Petitions. All the Petitioners in the respective Petitions have not joined the Applicants in filing these Applications. An Application for amendment in the pleadings, at the instance of few of the Plaintiffs/Defendants, is not tenable. All the Plaintiffs/Defendants must join in

⁶ (2006) 4 SCC 385.

seeking the amendment in the Complaint or Written Statement, as the case may be.

21. A useful reference in this context can be made to a judgment in the case of **Chanda Kedia and Anr Vs Dwarika Prasad Kedia & Anr**⁷ wherein it was held that where a written statement is jointly filed by a group of defendants, it cannot be amended at the behest of one or more such defendants unless the other defendants who are signatories to the joint written statement, expressly consent to the amendments sought.

22. In the case of **Seeta and Ors Vs Laxmi Kom Nagesh Naik**⁸ it was observed if there is a joint complaint or written statement filed, an application to amend the joint complaint or written statement would have to be filed by all the Plaintiffs or all the Defendants, who have filed the said pleadings jointly. An individual plaintiff or an individual defendant cannot seek to amend the complaint or written statement filed jointly.

23. Notwithstanding the aforesaid structural defect in the Applications, the Court proposes to examine the justifiability of the proposed amendment on its own merits.

24. To begin with, in the instant Petitions, the Petitioners have assailed the legality, propriety and correctness of orders passed by AGRC upholding the order of eviction passed by the Deputy Collector (Special Cell) SRA under

7 2024 SCC OnLine ALL 1152.

8 2025 SCC OnLine Kar 17984.

Section 33 and 38 of the Slum Act, 1971. In essence, the challenge is to the statutory orders passed by the Competent Authority. By the proposed amendment, the Applicants profess to raise the challenges as regards the legality and validity of the order passed by the AGRC dated 11th July 2022, setting aside the order passed by CEO, SRA, who, in turn, had set aside the appointment of the Developer (R4) and ordered the de-clubbing of the New Hanuman Society (R5).

25. Incontrovertibly, by order dated 7 July 2023, passed by a learned Single Judge of this Court in Writ Petition No.4795 of 2022, the challenge to the order of AGRC (R1) at the instance of New Hanuman Society (R5) was repelled and the said order has attained finality. The question which thus wrenches to the fore is, whether the challenge to the said order or the LOI and other orders passed by the SRA is maintainable at the instance of the Petitioners, who claimed to be the members of the New Hanuman Society (R5) ?

26. The legal position in this regard is absolutely clear. With the registration under the Maharashtra Co-operative Societies Act of 1960, a society becomes a corporate body. In the case of **Daman Singh (Supra)** the Constitution Bench of the Supreme Court had an occasion to consider the juridical status of a cooperative society under the Punjab Cooperative Societies Act, 1961. Section 30 of the Punjab Cooperative Societies Act, 1961

also conferred status of a body corporate on every society registered thereunder. In the context of the submission that the cooperative societies were not the corporations within the meaning of Article 31-A(1)(c) of the Constitution of India, the Supreme Court examined as to what a “corporation” means and comprehends ordinarily and in the scheme of the Constitution. Thereafter, the Supreme Court ruled that there cannot be the slightest of doubt that a cooperative society is a corporation as commonly understood.

27. In the case of **Daman Singh (Supra)** the Supreme Court also expounded the position in law as to what happens to the persons who formed themselves into a society or subsequently became members of the society. The Supreme Court enunciated that, once a person becomes a member of a cooperative society, he loses his individuality qua the society and has no independent rights except those given to him by statute and by-laws. He must act and speak through the society or rather, the society alone can act and speak for him qua rights or duties of the society as a body.

28. On first principles, I find substance in the submission on behalf of the developer (R4) that the Applicants-Petitioners, who claimed to be the members of New Hanuman Society (R5), have no independent right to challenge the order passed by the AGRC. Once New Hanuman Society (R5) failed in its endeavour to challenge the said order, the said decision would bind all the members of New Hanuman Society (R5) and it would be

impermissible for few members of New Hanuman Society (R5) to again separately assail the legality and correctness of the said order passed by the AGRC, lest there would be no finality to the litigation.

29. A perusal of the judgment of this Court in WP No.4795 of 2022 dated 7 July 2023 would indicate that the broad grounds sought to be incorporated by way of proposed amendment, including the de-clubbing or segregation of SR scheme of New Hanuman Society (R5) and benefit of DCPR 2034 in relation to the increase in FSI, were elaborately considered by the learned Single Judge. It was, inter alia, observed that the amalgamated SR scheme pursuant to LOI dated 29 July 2010 progressed continuously with the SRA clearly acknowledging Respondent No.6 (R4 herein), as Developer and, therefore, the contention to the contrary, after the entire amalgamated SR Scheme for rehab tenements was almost completed, could not be countenanced.

30. The elements of balance of convenience and prejudice to the Developer (R4) were weighed by the learned Single Judge. It was, thus, observed, once Respondent No.6 Developer (R4 herein), had progressed that far and the entire rehab was also completed, balance of convenience could never lie in favour of the Petitioner No.1 Society (R5 herein), to contend that they should be de-clubbed from the present SR scheme. Prejudice that would be caused to the Developer (R4) would be enormous. The learned

Single Judge also took into account the fact that, all members of the Society (R5) had entered into separate registered agreements with the Developer (R4) and were entitled to the benefits in accordance with the terms of the said agreement.

31. It was further noted that the reasons for amalgamation and composite development and clubbing of the three SR schemes were extremely crucial and important. After adverting to those reasons, the learned Single Judge observed that, what was required to be seen was, whether the larger objective of rehabilitation of the slum dwellers has been achieved or otherwise and, in view of the findings recorded in the said judgment, learned Single Judge opined that the said objective has, in fact, been achieved. Thus, the attempt of the Society (R5) to segregate itself from the composite amalgamated SR scheme could not be allowed under any circumstances.

32. With regard to the benefit of DCPR 2034, in the context of increase in the FSI potential, learned Single Judge observed that, the larger potential may be available to the society (R5) for construction and exploitation. But, in the facts of the case and the timeline which was outlined in the said judgment, it would be travesty of justice if, after constructing almost all rehab tenements, the developer (R4) was ousted at that stage, and deprived from the fruits of the sale component. Ultimately, learned Single Judge dismissed the Writ Petition comprehensively, with costs of Rs.50,000/-.

33. As noted above, the aforesaid judgment has not been modified, reversed or set aside. In such a situation, can few members of the Society (R5) be permitted to again call in question the legality, propriety and correctness of the order dated 11 July 2022 passed by the AGRC, which has been resoundingly affirmed by the aforesaid judgment, is the moot question.

34. In view of the decision of the Supreme Court in the case of **Daman Singh (Supra)**, such a course is legally impermissible. Dehors the principles of estoppel and constructive res-judicata, on the foundational premise of maintainability of the challenge to the order of the AGRC dated 11 July 2022 at the instance of the individual members of the new Hanuman Society (R5), the proposed amendment to the extent it mounts the challenge to the said order of AGRC, is impermissible.

35. The endeavour on the part of the Applicants to urge that, on account of the subsequent developments and discovery of new facts, new grounds of challenge are available, which were not available when the challenge at the instance of the Society was negated, does not take the matter any further. Abstract principle that the Court need not delve into the merits of the amendment, cannot be stretched to such an extent that the binding judgment of this Court is allowed to be questioned, in an indirect manner, by urging few new grounds, especially at the instance of the persons whose competence to mount such a challenge is itself tenuous.

36. The binding efficacy of a judgment pronounced by a Court of competent jurisdiction between the parties even in writ jurisdiction was emphasised by the Constitution Bench of the Supreme Court in the case of **Daryao and Ors Vs State of U.P and Ors**⁹ wherein the Supreme Court laid emphasis on the rule of *res judicata* being based on high public policy. The observations of the Supreme Court in paragraphs 9 and 18 are instructive and, hence, extracted below:

“9. But, is the rule of res judicata merely a technical rule or is it based on high public policy? If the rule of res judicata itself embodies a principle of public policy which in turn is an essential part of the rule of law then the objection that the rule cannot be invoked where fundamental rights are in question may lose much of its validity. Now, the rule of *res judicata* as indicated in S.11 of the Code of Civil Procedure has no doubt, some technical aspects, for instance the rule of constructive *res judicata* may be said to be technical; but the basis on which the said rule rests is founded on considerations of public policy. It is in the interest of the public at large that a finality should attach to the binding decisions pronounced by Courts' of competent jurisdiction, and it is also in the public interest that individuals should not be vexed twice over with the same kind of litigation. If these two principles form the foundation of the general rule of *res judicata* they cannot be treated as irrelevant or inadmissible even in dealing with fundamental rights in petitions filed under Art. 32.

.....

11. The same question can be considered from another point of view. If a judgment has been pronounced by a court of competent jurisdiction it is binding between the parties unless it is reversed or modified by appeal, revision or other procedure prescribed by law. Therefore, if a judgment has been pronounced by the High Court in a writ petition filed by a party rejecting his prayer for the issue of an appropriate writ on the ground either that he had no fundamental right as pleaded by him or there has been no contravention of the right proved or that the contravention is justified by the Constitution itself, it must remain binding between the parties unless it is attacked by adopting the procedure prescribed by the Constitution itself. The binding character of judgments pronounced by courts of competent jurisdiction is itself an essential part of the rule of law, and the rule of law obviously is the basis of the administration of justice on which the Constitution lays so much emphasis".....

37. Following the aforesaid pronouncement, a three Judge Bench of the Supreme Court in the case of **T.P. Moideen Koya Vs Govt of Kerala & Ors**¹⁰ postulated the applicability of the bar of *res judicata* or constructive *res judicata* even to a Petition under Article 32 of the Constitution as under:

"11. The principle which can be culled out from these authorities is that the bar of *res judicata* or constructive *res judicata* would apply even to a Petition under Article 32 of the Constitution where a similar petition seeking the same relief has been filed under Article 226 of the Constitution before the High Court and the decision rendered against the petitioner therein has not been

10 (2004) 8 SCC 106.

challenged by filing an appeal in the Supreme Court and has been allowed to become final.”

38. The court cannot also loose sight of the fact that the initial challenge in these Petitions was to the orders passed by the Authorities under Sections 33 and 38 of the Slum Act, 1971. By the proposed amendment, the entire complexion of the Petitions would be altered to reopen the issue of clubbing of the three societies for an amalgamated and composite SR scheme for three societies, validity of which has been emphatically upheld by this Court by the judgment and order dated 7 July 2023.

39. In the aforesaid view of the matter, I am inclined to hold that the proposed amendment to the extent it challenges the AGRC's order dated 11 July 2022, in any form, and on any grounds whatsoever, cannot be permitted.

40. As regards the challenge to the LOI dated 26 March 2024, which appears to be in continuation of the earlier LOI, since in pursuance of the liberty granted by the Division Bench, the Petitioners have already amended the Petitions so as to assail the legality and validity of the LOI dated 2 August 2022, and added the prayer to quash and set aside the said LOI (amended prayer clause A-2), the amendment only to the extent of prayer to quash and set aside LOI dated 26 March 2024 can be permitted to be incorporated, as a consequential amendment.

41. Resultantly, the Applications deserve to be partly allowed.

42. Hence, the following order :

ORDER

(i) The Interim Applications stand partly allowed to the extent of prayer clauses B-3, B-4 and B-5 in relation to LOI dated 26 March 2024, only.

(ii) The Interim Applications to incorporate the rest of the averments and the prayer clauses stand rejected.

(ii) Necessary amendment be carried out and amended copies of the Petitions be served on the Respondents on or before 5 January 2026.

(iv) Place Writ Petitions on 6 January 2026.

(v) Earlier arrangement shall continue to operate till the next date.

(N.J.JAMADAR, J.)