

Sayali

SAYALI
DEEPAK
UPASANI

Digitally signed by
SAYALI DEEPAK
UPASANI
Date: 2026.02.17
19:34:28 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16059 OF 2025

Jineshwari H Javeri ... Petitioner
V/s.
State of Maharashtra and Others ... Respondents

AND
WRIT PETITION NO.16060 OF 2025

Kamalnayan Javeri ... Petitioner
V/s.
State of Maharashtra and Others ... Respondents

Mr. Rajesh P. Khobragade, with Mr. Akash Tayade, for
Petitioners in both Petitions.

Ms. Shrivastava, AGP, for Respondent in WP
No.16059/2025.

Ms. A. A. Purav, AGP for Respondent in WP
No.16060/2025.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 17, 2026

P.C.:

1. Both matters come from the same type of proceeding. The society invoked Section 154-B(29) of the Maharashtra Cooperative Societies Act to recover dues from its members. The

petitioners have approached this Court questioning the correctness of that recovery action. Since the factual background, statutory provision and challenge are common, both petitions are decided together.

2. The main objection of the petitioners is about the accounts maintained by the society. According to them, the society keeps two different statements of accounts and they do not match. On that basis, they argue that the liability fixed upon them is inflated and not legally recoverable. They also state that from time to time they paid several amounts to the society. Even after the recovery certificate was issued under Section 101, they continued to deposit money. Therefore, according to them, the amount demanded is excessive and the recovery action should fail.

3. When this Court examines such a challenge, the first question is whether this dispute was actually placed before the authority which passed the order. The record shows that the petitioners had filed a written reply before the first authority on 17 June 2019. In that reply, they did not complain about existence of two different account statements. There was no specific plea that the society's accounts were inconsistent or legally defective. An authority can only decide issues that are raised before it. It cannot investigate new facts on its own. Since this point was never urged before the authority, the authority had no occasion to examine it. The present plea therefore appears to be raised for the first time in these petitions.

4. The alleged inconsistency in accounts is purely a factual dispute. Such a defence must be taken at the earliest stage so that the authority can verify records, call for documents and give findings. A party cannot remain silent before the authority and later attempt to build a new case in writ jurisdiction. Judicial review does not permit improvement of facts at a later stage. Therefore the authority committed no error in not dealing with a contention that was never placed before it.

5. However, the petitioners also state that they deposited certain amounts after issuance of the recovery certificate. On that aspect, the legal position is clear. Whenever a member deposits any amount after a certificate under Section 154-B(29) or Section 101 is issued, the society must give proper credit to that payment and adjust it against the outstanding dues. Recovery can continue only for the remaining balance, if any.

6. With this clarification regarding adjustment of payments, no ground remains to interfere with the recovery proceedings. The petitions therefore do not require further examination and stand dismissed.

(AMIT BORKAR, J.)