

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1264 OF 2026
IN
REVIEW PETITION NO.17 OF 2026

Prakash Raghunath Saave

.....Applicant/Petitioner

: Versus :

The State of Maharashtra through

Co-operation Minister and Ors.

....Respondents

Mr. Sarthak S. Diwan for the Applicant/Petitioner.

Mr. P. P. More, AGP for Respondent/State.

Mr. Rohan Savant with Mr. Gaurav Lele for Respondent No.4.

CORAM : SANDEEP V. MARNE, J.

DATED : 16 FEBRUARY 2026.

P.C :

1) The Petition is filed seeking review of judgment and order dated 4 March 2025.

2) The Petitioner had filed Special Leave Petition No. 19977 of 2025 before the Hon'ble Supreme Court challenging the judgment and order dated 1 August 2025. After the Supreme Court observed that the Petitioner sought to argue something which was never argued before this Court, the SLP was sought to be withdrawn with liberty to file application for review before this Court. Accordingly,

the present Review Petition is filed. For the purpose of effective adjudication of the Review Petition, I deem it appropriate to condone the delay. The delay in filing the Review Petition is accordingly condoned. Interim Application No. 1264 of 2026 is accordingly allowed.

3) The only ground on which review of judgment and order dated 4 March 2025 is sought is the classification of the Society as 'other society' in the Registration Certificate dated 26 July 2007. It is now sought to be contended in the Review Petition that the Circulars dated 29 November 2010 and 23 March 2016 apply only in relation to Co-operative 'Housing Societies' and that the same does not have application to the society involved in the litigation.

4) Mr. Diwan, learned counsel appearing for the Petitioner fairly admits that the point of non-applicability of Circulars dated 29 November 2010 and 23 March 2016 on the ground of Society's registration as 'other society' was never argued before this Court while deciding the Writ Petition. Ordinarily therefore, the judgment cannot be reviewed on the basis of something which was never argued before this Court. It is not the case of the Petitioner that the classification of Society as 'other society' was not in his knowledge and is discovered after decision of Writ Petition. It is also not that the point was argued and not considered and accordingly, review of the order cannot be sought in view of the principles laid down by the Apex Court in *Daman Singh and Ors. vs. State of Punjab and Ors.*¹ This would be the first reason why Review Petition deserves rejection.

5) However, even if the technicality of failure to argue the point of inapplicability of circulars dated 29 November 2010 and 23

1 (1985) 2 SCC 670

March 2016 is to be momentarily ignored, it is seen that the Society is ultimately formed and registered for the purpose of collective management of affairs of the building by the unit purchasers. The objective behind issuance of Circular dated 29 November 2010 is that the minimum number of members required for formation of a society for collective management of the building must be more than 10 since the developers find it difficult to complete construction on account of formation of a co-operative society after sale of only 10 units in a building which comprises of large number of units. This is the broad objective behind issuance of Circular dated 29 November 2010, which is modified by Circular dated 23 March 2016. The objective is to ensure that unless minimum of 51% unit purchasers purchase the flat, a co-operative society ought not to be formed in respect of a building under construction. If this broad objective behind issuance of Circulars is kept in mind, mere classification of the society as 'other society' and mere reflection of the type thereof as 'other society' in Registration Certificate dated 26 July 2017 would not make any difference. The society is ultimately registered as 'Harmony Plaza *Premises* Co-operative Society Limited' and has been formed and registered purely for the collective management of affairs of the building. If contention of Petitioner is accepted, the very objective behind issuance of Circulars would be frustrated and 'classification' of society indicated in registration certificate would become the determinative factor and not the 'purpose' for which the society is formed and registered. The difference brought out by the Circulars is that while any other society can be registered with only 10 members, any society formed for the purpose of collective management of building must comprise of minimum 51% purchasers of units constructed in the building.

6) Also of relevance is the conduct of the members who submitted the application for formation and registration of the society. Mr. Savant, the learned counsel for Respondent No.4 places on record the application made for registration of the Society, in which registration was sought as 'tenant co-partnership society'. Thus, the Chief Promoter, as well as the signing members themselves desired that the Society be registered as 'tenant co-partnership society'. Petitioner has failed to disclose the application for registration of the Society in the Review Petition while selectively relying on only registration certificate. They have suppressed the position that application was made for registration of society as 'tenant co-partnership society'. Without disclosing this position, the Petitioner is seeking to take benefit of the registration certificate dated 26 July 2017 reflecting the category of Society as 'other society' by conveniently ignoring the position that they themselves sought registration of the Society as 'tenant co-partnership society' and also the fact that the society is ultimately formed for collective management of the building.

7) This court takes adverse notice of the conduct of the Petitioner in suppressing the application made for registration of the Society.

8) In my view therefore, no ground is made out for review of the judgment and order dated 4 March 2025. The Review Petition is accordingly rejected.

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2026.02.18
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[SANDEEP V. MARNE, J.]