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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1580 OF 2026

Sudhir Mangelal Agarwal

... Petitioner

V/s.

The Deputy Registrar of Cooperative
Societies, K/East Ward & Ors.

... Respondents

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GANESH
KULKARNI

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Mr. Mohit Bhardwaj with Vinod Prajapati for the
petitioner.

Mr. O.A. Chandurkar, Additional G.P with Smt. M.S.
Shrivastava, AGP for respondents-State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 4, 2026

P.C.:

1. The petitioner, who is a member of a co-operative housing society, calls in question the legality and validity of the order passed by the Deputy Registrar granting a recovery certificate under Section 154B-29 of the Maharashtra Co-operative Societies Act, 1960. The principal grievance raised is that the Authorities failed to adhere to the mandate of Rule 86 of the Maharashtra Co-operative Societies Rules, 1961. It is contended that the petitioner had submitted an application seeking supply of a complete copy of the ledger account relied upon by the society; however, the said application was not adjudicated. Despite such pendency, the final recovery certificate came to be issued against the petitioner.

According to the petitioner, this course of action has resulted in violation of the principles of natural justice.

2. The factual matrix giving rise to the present writ petition is as follows. Respondent No.2, being the co-operative housing society, instituted proceedings under Section 154B-29 of the MCS Act seeking recovery of alleged outstanding dues from the petitioner for the period commencing from the year 2015 up to the year 2020, being the year in which the application was filed.

3. It is not in dispute that the petitioner is in occupation of Flat No. B-2201. The society alleges that the petitioner defaulted in payment of maintenance and other charges payable in respect of the said flat. On account of such alleged default, the aforesaid application for recovery was preferred. The application was initially rejected by order dated 28 September 2021. The society, being aggrieved, preferred Revision Application No. 91 of 2024. The revisional authority set aside the order of the Deputy Registrar and remanded the matter with a direction to reconsider the application in light of the judgment of this Court in *Writ Petition No. 851 of 2019* dated 31 July 2024.

4. Pursuant to the order of remand, the Deputy Registrar afforded an opportunity of hearing to the petitioner on 13 November 2025, 23 December 2025, and 8 January 2026. The petitioner, through his Advocate, advanced oral as well as written submissions. An application was also submitted seeking production and supply of documents, including a complete copy of the ledger account relied upon by the society.

5. Upon consideration of the material placed on record by the society, the Authority under the Act proceeded to direct the petitioner to pay a sum of Rs. 11,06,476/-. The said amount included interest calculated on the principal sum of Rs. 8,08,792/- from February 2019 at the rate of 21% per annum. It is an admitted position that, without availing the statutory remedy of revision under Section 154 of the MCS Act, the petitioner has invoked the writ jurisdiction of this Court.

6. Learned Advocate appearing for the petitioner submits that, even after remand, the society failed to produce relevant and supporting documents. It is contended that the recovery has been founded upon an unverified ledger account which, according to the petitioner, does not correspond with the bills allegedly issued by the society.

7. It is further submitted that the proceedings were not concluded for orders on 8 January 2026 and that the petitioner's application under Rule 86-D(1), seeking a direction to the society to produce requisite documents, was pending consideration. In such circumstances, it is urged that the Registrar ought not to have issued the recovery certificate in favour of the society in the absence of a properly verified ledger account. On this premise, it is contended that the present writ petition deserves to be entertained notwithstanding the availability of the alternative remedy under Section 154(2A) of the MCS Act.

8. The position in law regarding exercise of powers under Articles 226 and 227 is settled. When a statute creates a complete

machinery for redressal of grievances, that machinery must ordinarily be followed. The High Court does not function as the first forum in every dispute. The legislature, while enacting a statute, provides remedies such as appeal or revision with a clear purpose. Those remedies are part of the statutory design. If parties are permitted to ignore that structure and directly invoke writ jurisdiction, the statutory framework would lose meaning.

9. The Supreme Court in *Chhabil Dass Agarwal versus Commissioner of Income Tax and others*, reported in (2014) 1 SCC 603, examined this principle in detail. The Court considered whether a writ petition should be entertained when the statute itself provides an effective appellate or revisional remedy. The Supreme Court held that writ jurisdiction is discretionary. It is not intended to short circuit statutory procedures. If the remedy provided under the statute is adequate and efficacious, the High Court should normally decline interference and require the party to exhaust that remedy first.

10. At the same time, the Supreme Court clarified that this principle is not inflexible. Certain well recognised exceptions exist. A writ petition may be entertained where the authority has acted without jurisdiction, or where there is a clear and fundamental breach of principles of natural justice, or where the validity of a statutory provision itself is under challenge. These exceptions are grounded in fairness and legality. They are not to be invoked casually.

11. The decision in *Chhabil Dass Agarwal* therefore strikes a balance. It protects the role of the High Court under the Constitution. At the same time, it ensures that statutory remedies are not rendered redundant. The first duty of the Court is to examine the nature of the grievance. If the complaint fits within the recognised exceptions, writ jurisdiction can be exercised. If it does not, the party must be directed to avail the remedy created by the statute.

12. The Supreme Court in *State of U.P. versus Sudhir Kumar Singh*, reported in AIR 2020 SC 5215, considered how courts should approach allegations of breach of natural justice. The Court made an important distinction. It observed that every procedural lapse does not automatically invalidate an order. There is a difference between a case where no opportunity of hearing is given at all and a case where an opportunity is given but is said to be inadequate. Where there is total denial of hearing, the defect strikes at the root. In such cases, prejudice is presumed because the person was never heard.

13. However, where some opportunity has in fact been granted, the matter stands on a different footing. The Court must then examine whether the opportunity was real and meaningful. The principles of natural justice are meant to secure fairness. They are not technical rules to be applied mechanically. If a person had notice of the proceedings, knew the allegations, and was given a reasonable chance to respond, then minor procedural irregularities will not by themselves vitiate the action.

14. The Supreme Court emphasised the doctrine of prejudice. A party alleging violation of natural justice must demonstrate that real harm has been caused. Courts are not expected to interfere on technicalities alone. Judicial review concerns itself with the substance of fairness. It does not set aside orders for every procedural defect unless that defect has resulted in injustice.

15. The judgment in *Sudhir Kumar Singh* therefore lays down a clear test. Complete absence of hearing justifies interference. An imperfect or inadequate hearing requires proof of actual prejudice. This distinction is crucial while considering whether writ jurisdiction should be exercised on the ground of breach of natural justice.

16. In the context of Section 154(2A) of the Maharashtra Cooperative Societies Act, the Supreme Court examined attempts by borrowers to avoid the statutory requirement of deposit. In *Arun B. Khanjire versus Ichalkaranji Urban Cooperative Bank Limited*, reported in (2009) 2 SCC 187, the Court analysed the entire scheme of Section 154. The legislature had introduced sub section (2A) with a clear object. A person challenging recovery proceedings must deposit the prescribed amount before invoking revisional jurisdiction. This condition ensures seriousness and discourages frivolous challenges.

17. The Supreme Court noted that certain borrowers were attempting to bypass this requirement by adopting indirect methods. Instead of filing a revision and complying with the deposit condition, they approached other forums or directly

invoked writ jurisdiction. The Court held that such attempts cannot be permitted. A statutory condition cannot be avoided by choosing a different procedural path.

18. The Court further observed that Section 154 operates as a complete code in itself. Once the statute mandates a deposit as a condition precedent, that requirement cannot be diluted by clever drafting or by shifting the dispute to another forum. Permitting such a course would defeat the legislative intent behind introducing sub section (2A).

19. The decision in *Arun B. Khanjire* thus makes it clear that the deposit requirement under Section 154(2A) is substantive. It is not an empty formality. Courts must ensure that the statutory condition is respected and not rendered meaningless by entertaining proceedings that effectively bypass it.

20. In the present case, the petitioners contend that Rule 86 was breached because their application seeking documents, including the ledger extract, remained pending and the matter was not formally closed for orders. Even if these assertions are accepted as stated, they do not establish a case of total denial of hearing. The record indicates that proceedings were initiated and dates of hearing were fixed. Therefore, this is not a case where the petitioner was never heard at all. At the highest, it is a complaint that the opportunity was not fully effective.

21. Such a grievance must be assessed differently. As explained by the Supreme Court, absence of a party on a particular date, even for genuine reasons, does not automatically amount to

violation of natural justice. The key question is whether notice was given and whether an opportunity was made available. In the present case, hearings were held. Whether another opportunity ought to have been granted, or whether the authority should have decided the application for documents differently, involves examination of facts and records. This exercise cannot be undertaken for the first time in writ jurisdiction.

22. The allegation regarding breach of Rule 86 also cannot be resolved on mere assertions. Whether the procedure prescribed under the Rule was followed depends upon factual aspects such as service of notices, conduct of hearings, documents produced, and the material considered by the authority. These are mixed questions of law and fact. The Revisional Authority under Section 154 is empowered to call for records and examine these aspects in detail.

23. When an effective statutory remedy under Section 154 is available, and when the grievance requires factual scrutiny, this Court would not be justified in exercising writ jurisdiction at the threshold. Entertaining the petition would amount to permitting the statutory mechanism to be bypassed. The petitioners must first avail the remedy provided under the Act. The Revisional Authority is competent to consider all factual and legal issues raised.

24. It is clarified that all contentions of the petitioner on merits remain open. The Revisional Authority shall consider them independently, in accordance with law, without being influenced by any observations made herein.

25. *The petitioner is ready to deposit 50% of the alleged amount payable in this Court. However, it will be open for the petitioner to deposit such amount before the Revisional Authority.*

26. In view of the above discussion, the writ petition stands disposed of.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 9 February 2026. The corrections are shown in italicize.