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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2962 OF 2026

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Yogesh Jayantilal Shah & 169 Others ... Petitioners

Vs.

The State of Maharashtra & Others ... Respondent

WITH

WRIT PETITION NO.3137 OF 2026

ICC One and Two Cooperative
Housing Society Limited ... Petitioners

Vs.

The State of Maharashtra & 200 Others ... Respondent

Mr. S.S. Patwardhan with Mr. Sukumar Ghanvat i/by
Mr. Utkarsh Desai for the petitioners in
WP/2962/2026.

Mr. S.S. Patwardhan with Mr. Akhil Kupade i/by Mr.
Akhil Kupade for the petitioner in WP/3137/2026.

Mr. O.A. Chandurkar, Additional G.P. with Mr. H.D.
Mulla, AGP for respondent Nos.1 to 4-State in
WP/2962/2026.

Ms. S.S. Jadhav,, AGP for respondent Nos.1 to 4-State
in W/3137/2026.

Mr. Akhil Kupade for respondent No.5 in
WP/2962/2026.

Mr. Girish S. Godbole, Senior Advocate with Mrs. Usha
Tiwari and Ms. Vandana Tiwari for respondent No.6 in
both WPs.

CORAM : AMIT BORKAR, J.

RESERVED ON : MARCH 10, 2026.

PRONOUNCED ON : MARCH 17, 2026

JUDGMENT:

1. Both the writ petitions arise out of similar set of facts and evidence. As the issues involved are similar and arise from similar order, both the writ petitions are being decided together by this common judgment.

2. By the present writ petitions instituted under Articles 226 and 227 of the Constitution of India, the petitioners have assailed the Judgment and Order dated 16 February 2026 passed by respondent No.2 in Revision Application No.311 of 2025 preferred by respondent No.6, the proposed co-operative society.

3. The facts according to petitioners giving rise to the present writ petitions may briefly be stated as follows. The petitioners claim to be lawful members of respondent No.5, the existing co-operative housing society, which is the original society. Initially, 195 members had preferred an appeal before respondent No.3, the Divisional Joint Registrar. However, certain original appellants were not available for executing the vakalatnama. Consequently, the present writ petition has been instituted on behalf of 170 petitioners. It is not in dispute that both the petitioners and the chief promoter of respondent No.6, the proposed society, are members of respondent No.5 Society. The said society comprises two residential towers, namely Tower One and Tower Two. Approximately 190 members are residing in Tower One, whereas about 340 members are residing in Tower Two. The chief promoter of respondent No.6, along with approximately 88 members residing in Tower One, submitted a joint application dated 21

October 2024 before respondent No.4 seeking exercise of powers under Section 18 of the Maharashtra Co-operative Societies Act, 1960 for the purpose of effecting division of respondent No.5 Society into two separate societies. Thereafter, another application dated 25 October 2024 was also submitted reiterating the request for division of the said society. Along with the said application, the chief promoter forwarded certain resolutions purportedly passed by the proposed society. However, the said resolutions did not bear the names of any proposer or seconder. Subsequently, on 25 November 2024, the chief promoter submitted a proposal along with certain documents in support of the application seeking division of respondent No.5 Society. It is the case of the petitioners that neither the chief promoter nor the members who had signed the aforesaid application had submitted any requisition to respondent No.5 Society for convening a Special General Meeting for taking a decision regarding division of the society, as contemplated under Section 17 of the said Act.

4. Upon receipt of the aforesaid proposal from the chief promoter, respondent No.4 issued a communication dated 9 December 2024 directing the Head Clerk, Smt. R. R. Indulkar, working in his office, to visit the premises of respondent No.5 Society and submit a report in relation to the application submitted by the chief promoter of respondent No.6. Pursuant thereto, the said Head Clerk is stated to have visited the office of respondent No.5 Society. At the time of her visit, only the chief promoter of respondent No.6 and two staff members of respondent No.5 Society were present. According to the petitioners, except

interacting with the chief promoter of the proposed society, the said Head Clerk did not consult or hold any discussion with any other member of respondent No.5 Society prior to submitting her report. Thereafter, the chief promoter of respondent No.6 submitted yet another application dated 16 December 2024 before respondent No.4, reiterating the request for division of the society and assigning certain reasons in support thereof. The petitioners contend that the reasons set out therein were not sustainable either under Section 17 or Section 18 of the Maharashtra Co-operative Societies Act, 1960. Subsequently, the aforesaid Head Clerk, Smt. R. R. Indulkar, submitted her report dated 18 December 2024 to the office of respondent No.4.

5. After receipt of the said report, respondent No.4, the Assistant Registrar, without consulting the Federal Society, prepared a draft order dated 20 December 2024 proposing division of respondent No.5 Society into two entities, namely respondent No.5 Co-operative Housing Society for Tower Two and respondent No.6 proposed Co-operative Housing Society for Tower One. Upon learning about the said draft order, certain petitioners submitted an application dated 27 December 2024 requesting respondent No.4 to furnish the documents on the basis of which the said draft order had been prepared. In response thereto, respondent No.4 furnished the relevant documents by communication dated 6 January 2025. Thereafter, the petitioners submitted detailed objections on 14 February 2025 and again on 17 February 2025 requesting respondent No.4 to cancel the proposed draft order and to reject the proposal submitted by the chief promoter of

respondent No.6. However, respondent No.4, the Assistant Registrar, without adverting to the objections raised by the petitioners, proceeded to pass the final order dated 25 February 2025 directing division of respondent No.5 Co-operative Housing Society into two separate societies, namely respondent No.5 existing society for Tower Two and respondent No.6 proposed society for Tower One. Being aggrieved and dissatisfied with the said order dated 25 February 2025, the petitioners preferred Appeal No.70 of 2025 along with a stay application before respondent No.3, the Divisional Joint Registrar.

6. Respondent No.3, by order dated 4 March 2025, granted interim stay to the aforesaid order dated 25 February 2025. The said interim stay continued from time to time until final disposal of the appeal. Copies of the roznama of the hearings dated 11 March 2025 and 25 March 2025 have been annexed on record. Respondent No.6, the proposed society, filed its reply on 11 March 2025 and contested the appeal. The appeal before respondent No.3 was filed on 3 March 2025. It is the grievance of the petitioners that respondent No.4, the Assistant Registrar, without awaiting the report of the committee appointed for carrying out the actual division of respondent No.5 Society, proceeded to issue a notification registering respondent No.6 as a separate society and also issued the Registration Certificate dated 3 March 2025 in favour of respondent No.6 proposed Co-operative Housing Society.

7. In view thereof, the petitioners filed an application on 25 March 2025 seeking formal amendment of the appeal so as to challenge the aforesaid notification and registration certificate. By

order dated 25 March 2025, respondent No.3 allowed the said amendment application. On 25 March 2025, respondent No.3 heard the parties and directed them to file written submissions. Accordingly, respondent No.6 filed its written submissions opposing the appeal. The petitioners also filed their written submissions reiterating their contentions and prayed for allowing the appeal. Upon consideration of the rival submissions, respondent No.3 passed the final judgment and order dated 9 April 2025 allowing the appeal. By the said order, the order dated 25 February 2025 passed by respondent No.4 was set aside and the registration certificate issued in favour of respondent No.6 proposed society was also quashed.

8. Being aggrieved by the said order dated 9 April 2025, respondent No.6 approached this Court by filing Civil Writ Petition No.5639 of 2025. However, since an alternative statutory remedy was available, respondent No.6 withdrew the said writ petition with liberty to file a revision application before respondent No.2. By order dated 29 April 2025 passed in the said writ petition, this Court observed that if respondent No.6 files a revision application along with an application for stay, the Minister shall decide the stay application within a period of two weeks. Thereafter, on 2 May 2025, respondent No.6 preferred Revision Application No.311 of 2025 under Section 154 of the Maharashtra Co-operative Societies Act, 1960 before respondent No.2, the Hon'ble Minister, challenging the judgment and order dated 9 April 2025 passed by respondent No.3.

9. According to the petitioners, despite the short notice, their advocates reached Mantralaya at about 2.45 p.m. on 13 August 2025 in order to appear in the said proceedings. However, owing to heavy rush for obtaining entry passes, they could not secure the same before 3.00 p.m. Ultimately, the entry pass was issued at approximately 3.15 p.m. As there was another queue for entry into the Mantralaya building, the advocates were able to enter the premises only around 3.30 p.m. The advocate representing the revision applicant, who met them on the ground floor, informed the advocates for the petitioners that the hearing in the revision application had already concluded and that the matter had been closed for orders, with liberty granted to the parties to file written submissions within twenty days. Thereafter, the advocates for the petitioners reached the place of hearing at about 3.35 p.m.

10. Since respondent No.2, the Minister, was not physically present at the venue of hearing and was conducting the proceedings through video conferencing from another location, the advocates for the petitioners were unable to mention the matter and seek an opportunity of hearing. They also attempted to mention the matter at the end of the board. However, the same could not be done as respondent No.2 logged out immediately after hearing the last matter on the board. Consequently, the petitioners were deprived of an opportunity of hearing which, according to them, is mandatory under Section 154 of the Maharashtra Co-operative Societies Act, 1960. In the aforesaid circumstances, the petitioners submitted applications dated 3 September 2025 requesting that an opportunity of hearing be

granted to them. By way of precaution, the petitioners also filed short written submissions praying for dismissal of the revision application. However, after a lapse of more than seven months from the date on which the proceedings were closed for orders, respondent No.2, the Minister, without granting any opportunity of hearing to the petitioners and without considering the applications dated 3 September 2025 or the written submissions filed by the petitioners, proceeded to pass the impugned judgment and order dated 16 February 2026. By the said order, the revision application filed by respondent No.6 was allowed. Consequently, the judgment and order dated 9 April 2025 passed by respondent No.3 in Appeal No.70 of 2025 was set aside and the order dated 25 February 2025 passed by respondent No.4, directing bifurcation of respondent No.5 Co-operative Housing Society and granting registration to respondent No.6 proposed society, was confirmed. Being aggrieved thereby, the petitioners have approached this Court by filing the present writ petition.

11. Mr. Patwardhan, learned Advocate appearing on behalf of the petitioners, submitted that the impugned order has been passed in clear breach of the principles of natural justice. According to him, the impugned order came to be passed without affording the petitioners any opportunity of hearing. He pointed out that the petitioners had submitted a specific application dated 3 September 2025 before respondent No.2 requesting that they be granted an opportunity of hearing in the revision proceedings. However, respondent No.2 failed to consider the said application and proceeded to pass the impugned order without hearing the

petitioners. It is, therefore, contended that the impugned order is in direct contravention of the mandate of Section 154 of the Maharashtra Co-operative Societies Act, 1960. On this ground alone, it is urged that the impugned order deserves to be quashed and set aside.

12. It is further submitted that the authorities under the Act failed to properly appreciate the statutory scheme governing the exercise of powers under Section 18 of the Maharashtra Co-operative Societies Act. According to the learned counsel, respondent No.4 invoked the suo motu power under Section 18 by assigning the sole reason that there was no possibility of passing a resolution for division of the society in accordance with the procedure contemplated under Section 17 of the Act. It is contended that such reasoning is legally untenable, since the power under Section 18 cannot be exercised merely on the ground that the procedure prescribed under Section 17 may not result in a resolution for division of the society. The learned counsel submits that the suo motu power under Section 18 is required to be exercised only when the division is demonstrably in the interest of all the members of the society and not merely to accommodate the demands of a particular group of members. According to him, the order dated 25 February 2025 has been passed in disregard of the requirements of Sections 17 and 18 of the Act.

13. The learned counsel further submitted that respondent No.2 failed to take into account the mandatory procedural requirements prescribed under Section 18 of the Maharashtra Co-operative Societies Act, 1960 read with Rule 17 of the Maharashtra Co-

operative Societies Rules, 1961. It is submitted that the statute requires the authority to prepare a draft scheme for division of the society and thereafter consult the Federal Society before issuance of the draft order. In the present case, however, no draft scheme was prepared by respondent No.4 and what was issued was merely a draft order dated 20 December 2024. It is further submitted that, according to respondent No.4's own record, the opinion of the Federal Society was obtained only on 20 January 2025, which was subsequent to issuance of the draft order. Thus, the draft order was issued without preparation of a draft scheme and without prior consultation with the Federal Society. According to the petitioners, such procedure is contrary to the provisions of Section 18 of the Act and Rule 17 of the Rules. Consequently, the final order passed on the basis of the said draft order is also vitiated for non-compliance with the statutory requirements.

14. The learned counsel submitted that respondent No.2 also failed to consider that in the final order dated 25 February 2025 respondent No.4 has observed that the rights and interests of the members residing in Tower One would be adversely affected since 222 members residing in Tower Two had opposed the division of the society. According to the petitioners, such an observation is wholly unsustainable and devoid of logic. The mere fact that members residing in Tower Two opposed the proposal for division cannot lead to the conclusion that the rights or interests of members residing in Tower One were being adversely affected in the functioning of respondent No.5 society. It is pointed out that neither in the application submitted by the chief promoter of

respondent No.6 nor in the final order passed by respondent No.4 has any specific instance been recorded demonstrating that the rights of members residing in Tower One were violated due to the numerical strength of members residing in Tower Two. The petitioners contend that the members residing in Tower One have never been deprived of their rights as members of respondent No.5 society.

15. It is further submitted that while passing the impugned order, respondent No.2 failed to notice that in the final order dated 25 February 2025 respondent No.4 had observed that the present petitioners had failed to demonstrate how the division of the society would adversely affect the members residing in Tower Two and why such division should not be permitted. According to the learned counsel, in the objections submitted by the petitioners to the draft order, it had been clearly explained that the proposed division would adversely affect not only the members residing in Tower Two but also the members residing in Tower One. It is contended that respondent No.4 misdirected himself in law by placing the burden upon the petitioners to demonstrate adverse consequences. Under the scheme of Section 18 of the Act, the authority must be satisfied that the proposed division is in the interest of all the members of the society. The statute does not contemplate ordering division merely on the ground that it may not cause prejudice to some members. It is further submitted that respondent No.4 has failed to assign any cogent reasons to demonstrate how the proposed division would be in the interest of the members of the existing society. It is also pointed out that the

application seeking division was supported by less than fifty percent of the members residing in Tower One.

16. The learned counsel further submitted that respondent No.2 failed to consider that the principal contention of respondent No.6 was based on the alleged numerical imbalance between the members residing in Tower One and Tower Two. According to respondent No.6, the difference in the number of members would result in exclusion of members residing in Tower One from representation in the managing committee in future elections and would make it difficult for them to secure passage of resolutions with the support of a majority. It was further contended by respondent No.6 that such numerical imbalance would lead to disparity in the long run and the interests of members residing in Tower One would remain unprotected. The petitioners contend that these allegations are vague and unsupported by any factual material. No specific instance has been cited to demonstrate that members residing in Tower Two have dominated the decision making process or caused injustice to members residing in Tower One. It is submitted that mere numerical difference between members of two towers cannot by itself constitute a valid ground for bifurcation of an existing co-operative housing society. It is further pointed out that the present managing committee of the existing society comprises a majority of members residing in Tower One, which demonstrates that there is adequate representation of members from Tower One in the administration of the society.

17. Per contra, Mr. Godbole, learned Senior Advocate appearing on behalf of respondent No.6, submitted that the absence of an

opportunity of oral hearing at the stage of deciding the revision application has not caused any prejudice to the petitioners. According to him, the petitioners had already filed detailed written submissions before the revisional authority and the same were duly considered. He further submitted that the submissions advanced on behalf of the members in Writ Petition No.2962 of 2026 are substantially similar to the submissions made by the society and, therefore, no prejudice can be said to have been caused to the members. He further submitted that the authority had relied upon the report of the Head Clerk while passing the order of bifurcation and it is not necessary that the Registrar himself must personally carry out inspection. It is also pointed out that it is not the case of the petitioners that the report submitted by the said clerk is factually incorrect. The learned Senior Counsel further submitted that the existing society consists of two towers. Tower One has approximately 190 members, whereas Tower Two has around 340 members. According to him, both the towers have separate infrastructure such as independent water tanks, separate electricity connections, independent assessment by the Municipal Corporation of Greater Mumbai and separate water bills.

18. Placing reliance on the judgment of this Court in *Unnat Nagar Division 3 Co-operative Housing Society Limited & Another vs. State of Maharashtra & Others*, 2025 SCC OnLine Bom 39, the learned Senior Counsel submitted that the appellate authority committed an error in distinguishing the said judgment on the ground that the said decision had considered facts that arose subsequent to the bifurcation. Inviting attention to paragraphs 31

to 33 of the said judgment, he submitted that this Court has held that obtaining the opinion of the Federal Society after preparation of the draft order does not cause prejudice to the parties.

19. The learned Senior Counsel also placed reliance on the judgment of this Court in *Abdul Rehman Adam Dawa & Others vs. District Deputy Registrar of Co-operative Societies & Others*, 2025 SCC OnLine Bom 4378. He submitted that the parameters indicated in the said judgment, such as collective welfare of members, better administration and management, preservation of common facilities and maintenance of harmony among members, as well as the test formulated in paragraph 29 of the said decision, stand satisfied in the present case. According to him, the proposed bifurcation promotes democratic functioning and enhances accountability in financial matters. He further submitted that although the order passed in the said judgment has been stayed, the operation of the judgment itself has not been stayed and, therefore, the precedential value of the decision continues to subsist.

20. The learned Senior Counsel further submitted that the judgment of the Supreme Court in *Hemant Vimalnath Narichania & Another vs. Anand Darshan Co-operative Housing Society Limited & Others*, (2016) 6 SCC 142 has been distinguished by this Court in the case of *Unnat Nagar Division 3 Co-operative Housing Society* (supra). He submitted that merely because a majority of members oppose the proposal for bifurcation, the legitimate rights of 137 members out of 190 members residing in the second building cannot be defeated. According to him, the majority

opposing the bifurcation belong to the ICC-2 building. He submits that the authorities under the Act have taken into account the benefit of the members and the necessity of bifurcation for the purpose of efficient maintenance and management of the property. In these circumstances, according to him, the impugned order does not warrant interference in the exercise of writ jurisdiction and the writ petition deserves to be dismissed.

REASONS AND ANALYSIS:

21. First, the contention regarding breach of natural justice appears to have considerable substance and therefore requires careful examination. The record shows that the petitioners had specifically approached the revisional authority by submitting an application dated 3 September 2025 requesting that they be granted an opportunity of hearing in the revision proceedings. Along with that application, they also filed short written submissions so that their stand on the merits of the matter may at least remain on record. From the material placed before this Court it is clear that these written submissions were available before the revisional authority at the time when the matter was taken up for consideration. However, the circumstances in which the proceedings came to be closed assume significance. On the day fixed for hearing, the advocates representing the petitioners had reached Mantralaya in order to appear before the revisional authority. Because of the delay in obtaining entry passes and the procedure for entering the building, they could not reach the place of hearing immediately. At the same time the hearing was being conducted through video conferencing and the Minister logged out

soon after the matters on the board were completed. As a result of this situation, the advocates for the petitioners could not effectively present their case and the proceedings came to be closed for orders. In substance, therefore, the petitioners were deprived of the opportunity of making oral submissions before the revisional authority.

22. In the present case the revisional authority ultimately passed the impugned order after more than seven months from the date on which the proceedings were closed. Despite the passage of such considerable time, the petitioners were never called for hearing. Nor does the impugned order record any reason explaining why the request for hearing made by the petitioners was not accepted. Merely because written submissions were available on record cannot substitute the statutory requirement of hearing when the statute itself contemplates such opportunity. Written submissions may supplement oral arguments. They cannot replace them where the law requires that parties must be heard. Therefore, in the facts of the present case the failure to grant an oral hearing clearly amounts to violation of the principles of natural justice as well as the mandate of Section 154 of the Act. This defect goes to the root of the matter and by itself provides sufficient ground to set aside the revisional order.

23. Second, it becomes necessary to examine the procedure which was followed by the Assistant Registrar while initiating the process of division of the society under Section 18 of the Act. Section 18 of the Maharashtra Co-operative Societies Act read with Rule 17 of the Rules lays down a definite procedure which must be

followed before a society is divided. The authority is first required to prepare a draft scheme showing how the division of the society is proposed to take place. After preparing such draft scheme, consultation with the Federal Society is required. Only thereafter a draft order may be issued inviting objections from the concerned members.

24. The decision of the Supreme Court in *Hemant Vimalnath Narichania v. Anand Darshan Co-operative Housing Society Ltd. (2016) 6 SCC 142* explains in a clear manner the procedure that must be followed when the Registrar proposes to divide an existing co-operative housing society under Section 18 of the Maharashtra Co-operative Societies Act read with Rule 17 of the Rules. From the reading of the said provisions, the Supreme Court observed that the process begins with preparation of a draft scheme by the Registrar. The preparation of a draft scheme is not a mere preliminary formality. It is intended to set out the proposed manner in which the society is to be divided, the distribution of assets and liabilities, and the arrangement of management after the division. This draft scheme therefore forms the basic foundation of the entire process because it enables all concerned persons to understand the structure and consequences of the proposed division. After preparing such draft scheme, the next step required by law is consultation with the Federal Society. The consultation is meaningful only when the draft scheme is forwarded to the Federal Society so that it can examine the proposal and make suggestions or recommendations. The Supreme Court has clarified that this consultation must take place at the

stage of the draft scheme itself. The Federal Society is expected to review the scheme and advise the Registrar regarding the feasibility and propriety of the proposed division, keeping in view the interests of the members and the proper functioning of the co-operative structure. Once the suggestions or views of the Federal Society are received, the Registrar is required to consider them. After such consideration the Registrar may then proceed to prepare a draft order proposing the actual division of the society. This draft order is not the final decision. It is only a proposal which is circulated so that the members of the society may be informed about the intended action. The draft order must therefore be sent to the concerned society with a direction that the society should invite objections or suggestions from its members. This step ensures participation of the members in the decision-making process and allows them to place their concerns before the authority. If any objections or suggestions are received from the members, the Registrar must consider them carefully. The authority is required to examine whether any modification to the proposed arrangement is necessary in light of such objections. Only after undertaking this exercise and after applying his mind to the material placed before him can the Registrar pass a final order of division.

25. The Supreme Court further clarified an important aspect of the statutory procedure. The Court observed that the stage of consultation with the Federal Society arises only at the stage of preparation of the draft scheme. After that stage is over and the Registrar prepares the draft order for inviting objections from the

members, the statute does not require the draft order to be sent again to the Federal Society for consultation. In other words, the consultation with the Federal Society is a one-time step linked specifically with the draft scheme and not with the subsequent draft order.

26. The record of the present case indicates that this procedure was not followed in the manner contemplated by law. Respondent No.4 issued a draft order dated 20 December 2024 proposing division of the society. However, the opinion of the Federal Society was obtained only later on 20 January 2025. This clearly shows that consultation with the Federal Society was not undertaken prior to the issuance of the draft order. Further, the record does not indicate that any detailed draft scheme was prepared before the issuance of the draft order. For this reason also the process undertaken by respondent No.4 cannot be said to be in conformity with Section 18 read with Rule 17 of the Rules.

27. The reliance placed on the decision in *Unnat Nagar Division 3 Co-operative Housing Society Ltd. v. State of Maharashtra*, 2025 SCC OnLine Bom 39, does not advance the case of respondent No.6 when the facts of the present matter are examined in their proper perspective. In *Unnat Nagar Division 3*, this Court was considering a challenge to the process adopted by the Deputy Registrar while exercising powers under Section 18 of the Maharashtra Co-operative Societies Act read with Rule 17 of the Rules. The contention raised before the Court in that matter was limited in nature. It was argued that the Deputy Registrar had circulated the draft order to the Federal Society instead of

consulting the Federal Society at the stage of draft scheme and therefore the statutory procedure had been violated. While considering that submission, this Court held that in the facts of that case the consultation with the Federal Society, though undertaken after preparation of the draft order, had not caused any prejudice to the society concerned. The Court noted that the society had full opportunity to raise objections to the proposed bifurcation and the decision had been taken after considering the material on record. On that factual foundation the Court held that the deviation complained of was not of such nature as to vitiate the decision.

28. The situation in the present matter stands on a materially different footing. First, in the present case the procedural irregularity is not confined merely to the stage at which the Federal Society was consulted. The record indicates that no proper draft scheme was prepared prior to issuance of the draft order. Section 18 read with Rule 17 contemplates that the Registrar must first prepare a draft scheme setting out the proposed manner of division and thereafter consult the Federal Society on that scheme. In the absence of a draft scheme itself, the subsequent steps lose their statutory foundation. Therefore the procedural defect here is not a minor variation in the order of consultation but the absence of a mandatory step itself. Second, the decision in *Unnat Nagar Division 3* proceeded on the basis that the affected parties had been afforded adequate opportunity to participate in the process and that no real prejudice was demonstrated. In the present case, however, the material on record shows that the objections of the

members were not meaningfully considered and the ultimate revisional decision was rendered without granting the petitioners an opportunity of oral hearing. Thus the element of prejudice is clearly established. Third, in *Unnat Nagar Division 3* the Court was satisfied that the exercise of power under Section 18 had been undertaken after examining whether the proposed bifurcation would promote better administration and management of the society. In the present matter, on the other hand, the Assistant Registrar invoked suo motu power mainly on the ground that passing a resolution under Section 17 was unlikely. Such reasoning does not reflect the statutory requirement that the division must be in the interest of the members as a whole. Fourth, in the present case the authority also proceeded to grant registration to the newly proposed society even while the appeal against the order of division was pending. This circumstance introduces an additional procedural infirmity which did not arise in the factual context of *Unnat Nagar Division 3*. For these reasons, the ratio of *Unnat Nagar Division 3 Co-operative Housing Society Ltd.* cannot be mechanically applied to the facts of the present case. Consequently, the principle laid down in *Unnat Nagar Division 3* does not assist respondent No.6.

29. Third, the exercise of suo motu power under Section 18 also requires close scrutiny. The Assistant Registrar has recorded in his order that there was no possibility of passing a resolution for division of the society in accordance with the procedure contemplated under Section 17. On that basis he invoked the suo motu powers available under Section 18. Section 18 confers power

upon the Registrar to divide a society when such division is necessary in the interest of the members or for better management of the society. The power under Section 18 is therefore required to be exercised with caution and only when the authority is satisfied that division of the society is necessary for the collective benefit of the members as a whole. It cannot be exercised simply because one group of members desires separation or because there exists disagreement within the society. In the present case the record shows that the request for division was supported by about 88 members residing in Tower One. This number itself is less than half of the total members residing in that tower. There is also no detailed material placed on record demonstrating that the division of the society would result in better administration, improved management, or protection of the collective interest of all members. The reasoning adopted by the Assistant Registrar that the opposition from members of Tower Two amounts to infringement of the rights of members residing in Tower One is not convincing. Mere opposition by one group of members does not automatically establish that the other group is suffering prejudice. The authority ought to have examined whether the functioning of the existing society had in fact resulted in denial of rights or unfair treatment to members of Tower One. The order does not refer to any specific instance of such prejudice. In absence of such material the invocation of suo motu powers under Section 18 cannot be said to be justified.

30. Fourth, the report prepared by the Head Clerk and the manner in which the inspection was conducted also raises certain

concerns. It is true that the law does not require the Registrar himself to personally conduct every inspection. Administrative assistance may always be taken from subordinate officers. However, when such report forms an important basis for taking a drastic step like division of a society, the enquiry leading to that report must be fair and comprehensive. In the present matter the Head Clerk visited the office of the society and met the chief promoter of the proposed society along with two staff members. There is nothing to indicate that she interacted with other members of the society or sought their views before preparing her report. A report prepared after hearing only one side of the dispute cannot provide a reliable foundation for an important decision. The authority should have ensured that the enquiry included consultation with representatives of both towers and other concerned members. Such balanced enquiry would have helped the authority in forming an objective view. Since the report relied upon by the authority appears to have been prepared on limited interaction, its evidentiary value becomes doubtful.

31. Fifth, the argument advanced by respondent No.6 regarding numerical imbalance between the two towers also needs consideration. According to respondent No.6, Tower Two has around 340 members whereas Tower One has around 190 members. On that basis it is contended that members residing in Tower One may find it difficult in future to secure representation in the managing committee or to pass resolutions in the general body. However, this apprehension remains speculative. No specific instance has been pointed out where members of Tower Two have

actually exercised their majority in a manner which caused injustice to the members of Tower One. On the contrary, it has been pointed out by the petitioners that even in the present managing committee the majority of members are residents of Tower One. This circumstance indicates that participation of Tower One members in the management of the society is not excluded. Therefore, the mere existence of a larger number of members in one tower cannot by itself be treated as a sufficient ground for dividing the society into two separate entities. Some concrete material showing real prejudice would have been necessary.

32. For all these reasons, the Court is of the view that the impugned revisional order dated 16 February 2026 cannot be sustained in law. The order suffers from violation of natural justice as well as non compliance with the statutory procedure governing division of co-operative societies. Consequently the said revisional order deserves to be set aside and the matter requires reconsideration in accordance with law.

33. In view of the discussion and findings recorded hereinabove, the following order is passed.

- (i) Both the Writ Petitions are partly allowed.
- (ii) The Judgment and Order dated 16 February 2026 passed by respondent No.2 in Revision Application No.311 of 2025 is quashed and set aside.
- (iii) Consequently, the order dated 25 February 2025 passed by respondent No.4 directing division of respondent No.5 Co-operative Housing Society and the Registration Certificate

dated 3 March 2025 issued in favour of respondent No.6-Proposed Co-operative Housing Society shall not operate and stand set aside.

(iv) The Judgment and Order dated 9 April 2025 passed by respondent No.3–Divisional Joint Registrar in Appeal No.70 of 2025 shall stand restored.

(v) The proceedings, if any, seeking division of respondent No.5 Society under Section 18 of the Maharashtra Co-operative Societies Act, 1960 may be undertaken afresh only in accordance with law and strictly in compliance with the procedure contemplated under Section 18 of the said Act read with Rule 17 of the Maharashtra Co-operative Societies Rules, 1961, after granting due opportunity of hearing to all concerned parties.

(vi) Rule is made absolute in the aforesaid terms. There shall be no order as to costs.

(AMIT BORKAR, J.)