

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6990 OF 2026

WITH

WRIT PETITION NO. 6992 OF 2026

WITH

WRIT PETITION NO. 6993 OF 2026

WITH

WRIT PETITION NO. 6994 OF 2026

WITH

WRIT PETITION NO. 7000 OF 2026

WITH

WRIT PETITION NO. 7002 OF 2026

WITH

WRIT PETITION NO. 7003 OF 2026

WITH

WRIT PETITION NO. 7168 OF 2026

WITH

WRIT PETITION NO. 7180 OF 2026

**Fulwantibai Chhaganraji Rathod &
Ors.**

...Petitioners

V/s.

**Shantinath Darshan Co-op. Hsg.
Society Ltd. & Ors.**

...Respondents

Mr. Joel D'souza a/w. *Mr. Pierre Fernandes and Ms. Rupali Singh i/b. Mr. Ivor Peter D'cruz, for the Petitioner.*

Mr. Shamrao B. Gore *for Respondent No.1.*

Mr. K. B. Dige, Addl. GP *with Ms. Mamta S. Srivastava, AGP for State-Respondent Nos.2 and 3 in WP-6990-2026.*

Mr. A. I. Patel, Addl. GP *with Mr. P. V. Nelson Rajan, AGP for State in WP-6992-2026.*

Ms. Kavita Solunke, Addl. GP *with Ms. A.A. Nadkarni, AGP for State in WP-6993-2026.*

Mr. A. C. Bhadang, AGP *for State in WP-6994-2026.*

Mr. Hamid Mulla, AGP *for State in WP-7000-2026.*

Ms. Snehal S. Jadhav, AGP *for State in WP-7002-2026.*

Ms. V.R. Raje, AGP *for State in WP-7003-2026.*

Ms. S.D. Chipade, AGP *for State in WP-7168-2026.*

Ms. Savina R. Crasto, AGP *for State in WP-7180-2026.*

CORAM: SANDEEP V. MARNE, J.

DATED: 16 June 2026.

P.C.:

1) By these Petitions, Petitioners have challenged orders passed by the District Deputy Registrar, Co-operative Societies (4), Mumbai dismissing Revision Applications filed under Section 154 of the Maharashtra Co-operative Societies Act, 1960 and confirming the

Recovery Certificate dated 17 December 2024 issued by the District Deputy Registrar, Co-operative Societies Division, Mumbai.

2) I have heard the learned counsel appearing for the respective parties. I have gone through the reasonings recorded by the Deputy Registrar and District Deputy Registrar in their respective orders. I have also perused the records of the case filed alongwith the Petitions and the compilation of documents tendered on behalf of the Petitioners.

3) Petitioners are avoiding paying maintenance charges in respect of 10 flats occupied by them. Petitioners claim themselves to be the landowners who had executed a Development Agreement with the Developer for construction of buildings on the land. It is Petitioners' belief that the Developer was expected to construct an independent building for the owners without having any relationship with the sale component building. It appears that certain disputes arose between the landowners and the developer, and accordingly Suit No.1 of 1993 came to be instituted in this Court against the Developer. It appears that the Society has also got itself impleaded in that Suit.

4) After the Society was formed in the year 2005, the Petitioners challenged the order of registration of the Society by filing Appeal before the Divisional Joint Registrar which was allowed in the year 2012. However, upon Society's Revision before the Secretary, Minister of Co-operation, the order passed by the Divisional Joint Registrar was set aside and the order of registration of the Society was upheld. Petitioners filed Writ Petition No. 3666 of 2014 in this Court

challenging the order passed by the Secretary in Revision. The Writ Petition was however dismissed by order dated 21 August 2014. Before this Court, a specific issue was raised in Writ Petition No. 3666 of 2014 that there needs to be a separate society formed in respect of the flats occupied by the Petitioners. The submission however is rejected by this Court in order dated 21 August 2014 by observing in para-4 as under:

4. The contention of Mr. Karnik seems to be that the flats owners occupying B-wing (Rathod Niketan) should be given separate society. He contends that Wing-A (Shanti Darshan) is the separate building. The contention of Mr. Karnik cannot be accepted in the light of report of the Dy. Registrar (dated 27th September 2013) submitted to the Secretary for Co-operation, Government of Maharashtra. The report shows that in fact Wing-A and Wing-B are the parts of one building only. The photographs annexed to this report support the conclusion of the Dy. Registrar. In that view of the matter, it is clear that there cannot be two societies for one building.

5) Review Petition filed by the Petitioners seeking review of Order dated 21 August 2014 was also rejected by order dated 13 March 2015. Petitioner thereafter carried the matter before the Hon'ble Apex Court, which was pleased to dismiss the SLP vide order dated 17 August 2015. Thus, the issue of formation of one society in respect of both the wings of the building has attained finality.

6) Thus, it is now a settled position that a common society is validly formed in respect of even the wing occupied by the Petitioners. It is Society's contention that it is maintaining the wing in respect of which 10 flats are occupied by the Petitioners. All the property taxes, electricity charges etc. are borne by the Society. In that view of the matter, Petitioner cannot question Society's entitlement to recover maintenance charges from them.

7) One of the issues urged before me is that the Petitioners are not members of the Society. However, non-membership of the Petitioners is an act attributable to the Petitioners themselves. Petitioners are not interested in becoming members of the Society and are deliberately avoiding becoming members with a view to avoid payment of maintenance charges. Mr. Gore the learned counsel appearing for the Respondent-Society has submitted that if Petitioners apply for grant of membership, the Respondent-society is willing to admit Petitioners as its members. It is therefore for the Petitioners to take a call in this regard. In the event they apply for membership, I do not see any difficulty why the Society would not admit them as members.

8) So far as pendency of Suit No.1/1993 is concerned, the same essentially emanates out of disputes and differences between the landowners and the developer. The dispute was with regard to the manner of construction of buildings on the land. It appears that a settlement took place between the landowners and the developer on 19 September 1994, under which the Developer agreed to grant 10 flats to the landowners in addition to payment of certain consideration. A site inspection was conducted by the concerned Authorities and it has been found that the building in which the flats are occupied by the Petitioners is not a separate or independent building. It is fused with the structure of the other building (Shantinath Darshan CHSL). In that view of the matter, mere pendency of the suit cannot be a reason for absolving the Petitioners of their liability to pay maintenance charges to the Society.

9) Also of relevance is the fact that the Society had initiated recovery proceedings against the Petitioners in the year 2016, in which orders have been passed issuing Recovery Certificates in respect of the past period. The Recovery Certificate dated 31 December 2016 was challenged in Revision which came to be dismissed on 28 November 2018. Though Writ Petitions are filed challenging the previous Recovery Certificates, there appears to be no interim protection in favour of the Petitioners. Mr. Gore submits that the Society has applied for execution of previous Recovery Certificates and one of the flats of the Petitioners has already been attached. Thus, in respect of the previous Recovery Certificates issued in the year 2016, Petitioners have not been able to secure any protection.

10) Considering the above position, this Court is not inclined to exercise extraordinary jurisdiction under Article 227 of the Constitution of India. Filing of the Petitions is aimed at depriving the Society of maintenance charges. The Petitions are filed by the Petitioners with a view to secure maintenance-free occupation of the 10 flats by them. Other members of the Society are made to bear the burden in respect of the 10 flats occupied by the Petitioners. Considering this position, this Court is not inclined to exercise extraordinary jurisdiction under Article 227 of the Constitution of India.

11) The Writ Petitions are accordingly rejected.

[SANDEEP V. MARNE, J.]