

Sayali

SAYALI
DEEPAK
UPASANI

Digitally signed by
SAYALI DEEPAK
UPASANI

Date: 2026.03.11
10:25:50 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.8 OF 2026
WITH
INTERIM APPLICATION NO.1928 OF 2026

Sarina Esmeralda Lopez

... Petitioner

V/s.

Mohini Kalantri and Others

... Respondents

Ms. Sarina E. Lopez, for Applicant, Petitioner in Person.

Mr. S.L. Babar, AGP for State- Respondent nos. 2 and 3.

CORAM : AMIT BORKAR, J.

DATED : MARCH 10, 2026

PC.:

1. The present review petition has been filed by the petitioner mainly on the ground that the order dated 26th November, 2025 came to be passed without granting an opportunity of hearing to her. According to the petitioner, this has resulted in serious prejudice, since certain factual and legal aspects which she intended to place before the Court could not be considered at the time when the writ petition was decided. In support of this contention, the petitioner has placed reliance upon the judgment of the Supreme Court in *Hemlata Eknath Pise Vs. Shubham Sanstha and Others* in SLP No. 27266–27277. On the strength of the said judgment it is contended that the Court while deciding a matter is

expected to examine and adjudicate all issues which arise from the record, and that the failure to consider the petitioner's submissions has resulted in an incomplete adjudication.

2. The petitioner further submits that the transfer deed on the basis of which petitioner No.1 in the original writ petition was claiming membership of the respondent society consisted of two components, namely a residential flat and a garage. According to the petitioner, the garage which formed part of the said transfer deed is no longer in existence as it has already been demolished. It is therefore her contention that the transfer itself is surrounded by disputes relating to the nature and extent of the property covered under the deed. She submits that she proposes to institute appropriate proceedings under Section 91 of the Maharashtra Co-operative Societies Act for the purpose of challenging certain aspects of the said transfer deed executed in favour of petitioner No.1.

3. The petitioner has also attempted to point out certain conduct on the part of petitioner No.1 which, according to her, is detrimental to the interest of the society and its members. She has stated that the husband of petitioner No.1 is also involved in actions which are contrary to the interest of the society. It is further alleged that petitioner No.1 is attempting to encroach upon the compulsory open space or compound area belonging to the society. On these premises the petitioner submits that these issues required proper consideration and therefore the earlier order deserves to be reviewed.

4. Having considered the submissions advanced on behalf of the petitioner, I am of the view that the grounds raised in the present proceedings do not fall within the limited scope of review jurisdiction. A review can be entertained only when there exists an error apparent on the face of the record or when some material fact which could not be produced earlier despite due diligence has come to light. The power of review is not meant to permit a rehearing of the matter or to reopen the issues which have already been examined by the Court.

5. The record shows that by order dated 26th November, 2025 this Court had allowed the writ petition filed by petitioner No.1 and others primarily on the ground that the present review petitioner did not possess any right, title or legally enforceable interest in the property concerned. The Court had examined the scheme of the Maharashtra Co-operative Societies Act and had come to the conclusion that any challenge to the transfer of membership must originate from a person whose civil or proprietary rights are likely to be directly affected by such transfer.

6. In other words, the Court had taken the view that objections relating to the validity of transfer of membership cannot be entertained at the instance of a person who does not demonstrate any lawful connection with the property or the membership in question. The review petitioner admittedly does not claim ownership, possession, or lawful occupation of the flat in respect of which the membership was transferred. In the absence of such a legally recognizable interest, the Court had held that the petitioner

cannot object to the transfer of membership between other persons who are directly concerned with the property.

7. The present review petition does not demonstrate any error in that reasoning. What is sought to be argued is essentially a reiteration of certain disputes which the petitioner proposes to raise in separate proceedings under Section 91 of the Act. Such proposed disputes cannot furnish a ground to reopen the order already passed by this Court.

8. The record further indicates that the review petitioner had in fact been served with notice of Writ Petition No. 3227 of 2021. Service of notice is a matter reflected from the record placed before the Court. Despite such service, the petitioner neither engaged an Advocate nor chose to appear in person on the date when the matter was heard. Once notice of the proceedings was duly served, it was the responsibility of the petitioner to take appropriate steps to place her case before the Court. The Court cannot be expected to indefinitely defer the adjudication of a matter when the parties who are served choose not to appear. The absence of the petitioner at the time of hearing was therefore a consequence of her own inaction. The order passed thereafter cannot be termed as one passed without opportunity, particularly when the record clearly shows that notice had been duly served.

9. In so far as the other submissions advanced by the petitioner are concerned, they relate to alleged disputes regarding the transfer deed, demolition of the garage, and certain acts said to have been committed by petitioner No.1 in relation to the open space of the

society. These are essentially matters which may form the subject matter of independent proceedings if the petitioner is otherwise entitled to initiate them in accordance with law. However, these allegations do not disclose error apparent on the face of record in the order dated 26th November, 2025.

10. A review jurisdiction cannot be converted into an appellate forum for reconsidering the entire matter. Unless the petitioner is able to show a clear error apparent on the face of the record, the earlier decision cannot be reopened. The grounds raised in the present petition fall outside the narrow parameters within which a review can be entertained.

11. For these reasons, I am of the opinion that the present review petition does not disclose any ground which would justify interference with the order already passed by this Court. The petition therefore does not merit consideration.

12. Accordingly, the review petition is dismissed.

13. The Interim Application stands dismissed of accordingly.

(AMIT BORKAR, J.)