



wp6065-2022-J-I.000

2026:BHC-AS:9300

AGK

ATUL
GANESH
KULKARNI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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ATUL GANESH
KULKARNI
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WRIT PETITION NO.6065 OF 2022
WITH
INTERIM APPLICATION NO.3197 OF 2022

1. **Ujwal H Muranjan**
An adult Indian Inhabitant
Age_66_years, Residing at
Flat No. A4, A805 Panchavati Co-op
Hsg.Soc.Ltd. Marol Maroshi Road,
Andheri (East), Mumbai- 400059
2. **Shiv Singh Rautela**
An adult Indian Inhabitant
Age 70 years, Residing at Flat
No.A4/A/704, Panchavati Co-op
Hsg. Soc.Ltd. Maroshi Road,
Andheri East),Mumbai- 400059
3. **Vaishali S Samat**
An adult Indian Inhabitant
Age 65 years, Residing at :
Flat No. A5, A504 Panchavati Co-op
Hsg.Soc.Ltd. Marol Maroshi Road,
Andheri (East),Mumbai- 400059 ... **Petitioners**

V/s.

1. **Panchvati Co-op Hsg.Soc. Ltd.**
Through Chairman/ Secretary
Marol Maroshi Road,
Andheri (East), Mumbai
2. **Deputy Registrar Co-op. Housing
Society .Ltd. K/E Ward,**
Wadala, Mumbai,

**3. Shivaji Shinde**

Inquiry Officer Panchvati Co-op Hsg
Soc. Ltd. Having his Office at
19/146, Anand Nagar,
Vakola Bridge, Santacruz (west),
Mumbai-400055.

4. The State of Maharashtra

Through Government Pleader,
High court Bombay

... Respondents

Mr. Mukesh Pabari, for Petitioner.

Mr. Subhash G. Bane, with Ms. Avneet Nagpal, for
Respondent No. 1.

Mr. S. L. Babar, AGP for Respondent Nos. 2 and 4/State.

CORAM : AMIT BORKAR, J.

RESERVED ON : JANUARY 28, 2026.

PRONOUNCED ON : FEBRUARY 24, 2026

JUDGMENT:

1. The present petition is filed under Article 226 of the Constitution. The petitioners are members of the managing committee of a cooperative society. They question the legality of the order passed by respondent No.4 in an appeal. That appeal arose from the order dated 2 November 2021 passed by the Divisional Joint Registrar in Appeal No.205 of 2017. The said appeal itself arose from an inquiry conducted under Section 88 of the Maharashtra Cooperative Societies Act and the report dated 9 August 2018. Alongside this, there was also a Revision Application No.519 of 2017 which challenged the certificate dated 3 October



2017 issued under Section 98 of the Act. Thus, the dispute travels through multiple statutory stages, first an inquiry, then proceedings for recovery, then appeal and revision, and finally the present writ challenge. The Court therefore must first examine whether the petitioners had a legal right to maintain the appeal before the authority whose order is now questioned.

2. Section 152(3) of the Act clearly treats an order passed under Section 88 as a final order for the purpose of appeal. The scheme of the Act is important. After an inquiry fixes responsibility and quantifies loss, the law intends finality at the appellate stage. The statute then allows only a revisional scrutiny by the higher authority. However, the record indicates that the petitioners filed what is in substance a second appeal under Section 152. Section 152(4) expressly bars such a second appeal. Once the statutory appeal is exhausted, the remedy shifts to revision alone. The petitioners therefore invoked a forum which the statute itself does not recognize. When a statute creates a right and also limits the manner of its exercise, parties must remain within those limits. The authority could not have entertained a proceeding which the Act itself prohibits.

3. A similar defect exists in relation to the order passed in Revision Application No.519 of 2017. Section 152 provides appeals only against specified categories of orders. It does not provide an appeal against an order passed in revision under Section 154. Revision is supervisory. It is intended to be the last departmental scrutiny. Permitting another appeal thereafter would defeat finality and prolong recovery of society funds. Therefore, the appeal filed



by the petitioners against the revisional order was outside the statutory framework. The petitioners attempted to reopen a matter already concluded by the competent revisional authority, which the Act does not permit.

4. From the above position, it follows that Appeal No.205 of 2017 itself was not maintainable. Once the appeal was incompetent in law, the appellate authority ought not to have entered into the merits of the dispute. A decision rendered in a proceeding lacking jurisdiction does not confer any enforceable right upon the parties. In writ jurisdiction, the Court is concerned not merely with correctness but also with legality of the process. When the very foundation of the appeal was contrary to the statute, entertaining the writ petition to examine factual or legal merits would indirectly validate an impermissible proceeding. The Court therefore declines to exercise its discretionary jurisdiction.

5. The writ petition is accordingly dismissed. No order as to costs.

6. It is clarified that dismissal of this petition will not prevent the petitioners from pursuing such remedy as may be available to them in accordance with law, if any survives within the statutory scheme.

7. In view of the disposal of the writ petition, all pending interlocutory applications stand disposed of as infructuous.

(AMIT BORKAR, J.)