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Duration	:	Y M D 00 02 15

CNR No.MHCA010000062026

Exh.No.17

THE MAHARASHTRA STATE CO-OPERATIVE APPELLATE COURT,
MUMBAI
(Before A. S. Wanve, Member-2)

REVISION APPLICATION NO.01 OF 2026

(Arising out of order dated 09/12/2025 passed by Ld. Judge, Co-operative Court No.II, Mumbai, below Exh.22 in dispute No.CC/II/362/2025)

Mrs. Charu Kishor Mehta

Age: 78 years, Occ.: Housewife

Diamond House, 9, Vatcha Gandhi ... Applicant
Road, Gamdevi, Mumbai-400 007. (Org. Disputant)**VERSUS**

- 1. New Usha Kiran Co-operative Housing Society Ltd.**
Carmichael Road, M. L. Dahanukar Marg, Mumbai-400 026.
- 2. Anant Patel, Secretary**
New Usha Kiran Co-operative Housing Society Ltd., Carmichael Road, M.L. Dahanukar Marg, Mumbai-400 026.
- 3. Atul Maru, President**
New Usha Kiran Co-operative Housing Society Ltd., Carmichael Road, M. L. Dahanukar Marg, Mumbai-400 026.
- 4. Hemant Visanji, Treasurer**
New Usha Kiran Co-operative Housing Society Ltd., Carmichael Road, M. L. Dahanukar Marg, Mumbai-400 026.
- 5. Abhimanyu Thackersey**

Flat No.19, New Usha Kiran Co-operative Housing Society Ltd., Carmichael Road, M. L. Dahanukar Marg, Mumbai-400 026.

6. Ajay Parekh, Member

New Usha Kiran Co-operative Housing Society Ltd., Carmichael Road, M. L. Dahanukar Marg, Mumbai-400 026.

7. Uday Grover, Member

New Usha Kiran Co-operative Housing Society Ltd., Carmichael Road, M. L. Dahanukar Marg, Mumbai-400 026.

8. Chitra Jain

Flat No.17, New Usha Kiran Co-operative Housing Society Ltd., Carmichael Road, M. L. Dahanukar Marg, Mumbai-400 026.

9. Karishma S. Swali

Flat No.31, New Usha Kiran Co-operative Housing Society Ltd., Carmichael Road, M. L. Dahanukar Marg, Mumbai-400 026.

10. The Deputy Registrar,

D Ward, Co-operative Societies, Mumbai
6th Floor, Malhotra House, Opp. G.P.O., ... (Org. Opponents)
Fort, Mumbai-400 001.

11. Acrynova Industries Private Limited

Through its directors ... (Org. Intervener)
The Paragaon, 101, 1st floor, Sitaram
Jadhav Marg, Dhanraj Mill Compound,
Lower Parel, Mumbai-400 013. ... Respondents

Appearance:

Ld. Advocate Smt. Rajani Kanojia i/b Ld. Adv. Shri. Vaibhav Parchake for applicant.

Ld. Advocate Smt. Drishti Irani for respondent Nos.1 to 4 and 6 to 9.

Ld. Advocate Shri. Vishal Pattabiraman i/b. M/s. Sonal Doshi & Co. for respondent No.11.

J U D G M E N T

(Dictated and pronounced on 13th April, 2026)

- 1) This revision application is directed against the order dated 09/12/2025 passed by the Ld. Judge, Co-operative Court No.II, Mumbai, below Exh.22 in dispute No.CC/II/362/2025. The Ld. Trial Court has allowed intervention application Exh.22. (The parties hereinafter are referred as to their original status in the dispute before the Ld. Trial Court).
- 2) Disputant has filed dispute for declaration and injunction against opponent No.1 society and others. Disputant is a senior citizen and had applied for sole membership in respect of flat No.37 of the opponent No.1 society, opponent Nos.2 to 9 are the office-bearers of the society and opponent No.10 is Deputy Registrar, Co-operative Societies, Mumbai. By filing dispute, disputant prayed for declaration that impugned resolution dated 08/08/2023 passed by the opponent No.1 society and purported transfer entry in the share certificate No.41 to the extent of adding the name of M/s.Acrynova Industries Pvt. Ltd. are illegal, null and void-ab-initio. For direction to opponent Nos.1 to 9 to forthwith reverse and set aside the illegal and unauthorised entry made in the Share Certificate No.41 transferring the said flat to M/s.Acrynova Industries Pvt. Ltd. and to restore the status quo in respect of said property. Restraining opponent Nos.1 to 9 from giving effect to any further transfer or alienation of the said flat or its shares and/or acting

upon the resolution dated 08/08/2023 pending the disposal of dispute. To restrain opponent Nos.1 to 9 from giving effect to the creation of any encumbrance/mortgage of any financial institution on the said flat alienation of the said flat or its shares, pending disposal of dispute.

3) During the pendency of the dispute respondent No.11 i.e. M/s.Acrynova Industries Private Limited filed application below Exh.22 for intervention as party opponent to the dispute mainly on the ground that intervenor M/s.Acrynova Industries Private Limited (hereinafter be referred as Company). The company has acquired disputed flat No.37 on 31/03/2012 through e-auction. The sale is confirmed by Debt Recovery Tribunal Mumbai and sale certificate dated 10/05/2022 issued in favour of the company. The company has been put up in possession of the said flat from the month of June 2022. The disputant had challenged the sale proceedings upto Hon'ble Apex Court. The Hon'ble Apex Court upheld the sale. The company has acquired the right, title and interest in the disputed flat. The disputant has filed more than 30 frivolous proceedings in respect of the said flat. The disputant in the dispute application directly challenged the membership of company and prayed reliefs in respect of membership of the company. If any relief is granted in the dispute, then that will affect the interest of intervenor company. Therefore, intervenor company is necessary party to the dispute.

4) Record shows that disputant objected the intervention application by filing reply to the intervention application. The main objection of the

disputant to the intervention application is that, the director of intervener company is Mr. Anant Patel who is Secretary of opponent No.1 society and he is already made party as Opponent No.2 in the dispute. The intervention application is filed at the belated stage. The subject matter of the dispute is in respect of illegal and unauthorized entries made in the society's record during subsistence of valid status quo order and to the conduct of society in maliciously effecting such entries. It is for the society to satisfy as to how and under what authority such entries came to be made during the status quo order was in force. New flat purchaser cannot raise any grievance in the present dispute as he acquires no independent rights against the predecessor in title and can claim membership from the society. The society is duly representing itself in the matter. The subject matter of the dispute is concerns to the genuineness and legalities of the entries made in the share certificate and agenda of the general body meeting both of which are purely internal issues of society. The intervenor company being only a flat purchaser can be represented only through society. The disputant has not claimed any relief against the intervenor company. Therefore, intervenor company is not necessary or proper party to the dispute. The disputant has denied the contents of intervention application.

5) After hearing both sides, Ld. Trial Court by impugned order dated 09/12/2025 allowed intervention application Exh.22 and directed the

disputant to add intervenor company as party opponent to the dispute application.

6) Being aggrieved and dissatisfied by the impugned order passed by the Ld. Trial Court, the original disputant has filed this revision application on the grounds more specifically mentioned in the revision application mainly on a ground that Ld. Trial Court failed to appreciate that dispute does not concern adjudication of title, ownership or possession of the flat, but is confined to the legality of unauthorised alterations made by the respondent No.1 society in its membership and share certificate records during the subsistence of a judicial status-quo order. It is wrongly conflated the issue of illegal record tampering by the society with the rights of a subsequent purchaser., though the latter does not fall for determination in the proceedings. No declaratory, executory or coercive relief is sought against respondent No.11 nor is any direction required to be enforced against it. The reliefs claimed are exclusively directed at scrutiny of the Society's statutory actions, rectification of illegal entries made in violation of judicial restraint and enforcement of statutory obligations under the Maharashtra Co-operative Societies Act, 1960 (MCS Act). The party cannot be held "necessary" merely because it claims an interest in the subject matter, unless such interest is required to be legally adjudicated or relief is enforceable against it and therefore does not satisfy the test of indispensability. The impleadment of respondent No.11 has caused a miscarriage of justice by diverting adjudication from the core statutory

and judicial compliance issue, namely the society's violation of a status quo order and illegal manipulation of its records. The ownership of flat and membership of a Co-operative Housing Society are independent, distinct and no interchangeable legal rights, governed by separate statutory frameworks. Respondent No.11 is only a subsequent purchaser claiming through a disputed transfer allowed by the society. The actions of the society are in question /subject matter of the dispute.

7) Applicant further submits that Respondent No.11 acquires no independent or enforceable right to intervene in proceedings concerning the authenticity or legality of share certificate entries of membership, admission or rejection during subsistence of status quo order or correction/cancellation of internal records or society's statutory compliance duties and in absence of the same cannot be a necessary party. Share certificates and membership rights are indivisible and until respondent No.11 becomes a member by due process, he cannot assert locus to contest proceedings seeking correction or declaration on invalidity of share entries, which directly affect the applicant's statutory entitlement under section 23(2) of the MCS Act, 1960. The intervener's rights are only consequential through another party's compliance, and cannot be treated as a necessary or proper party under section 91 of the MCS Act unless their personal rights are directly adjudicated. The intervention is not a matter of routine entitlement but an exception, permissible only when bona fide necessity is demonstrated with reasonable diligence. Hence, prayed to allowed revision application.

8) In response to the summons/notice issued by this court, the respondent No.11 appeared through advocate and strongly objected the revision application on the grounds more specifically mentioned in its reply at Exh.13. Respondent Nos.1 to 4 and 6 to 9 appeared through advocate and objected the revision application on the grounds more specifically mentioned in reply at Exh.16.

9) Heard Ld. Advocate Smt. Rajani Kanojia i/b Ld. Adv. Shri. Vaibhav Parchake for applicant, Ld. Advocate Smt. Drishti Irani for respondent Nos.1 to 4 and 6 to 9 and Ld. Advocate Shri. Vishal Pattabiraman i/b. M/s. Sonal Doshi & Co. for respondent No.11, at length.

10) Considering the grounds of the revision, following points arose for my determination and I record my findings thereon for the reasons recorded below :-

	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether M/s. Acrynova Industries Pvt. Ltd. is necessary or proper party for the dispute No.CC/II/362/2025?	.. In the affirmative
2.	Whether the impugned orders passed below Exh.22 dated 09/12/2025 by the Ld. Trial Judge is legal and proper?	... In the affirmative
3.	Whether any interference is called upon the impugned orders?	... In the negative
4.	What order ?	... As per final order

REASONS**As to point Nos. 1 to 3 :**

11) Ld. Advocate Smt. Rajani Kanojia i/b Ld. Advocate Shri. Vaibhav Parchake for applicant argued that, considering the nature of dispute, the respondent No.11 is not necessary or proper party to decide the dispute filed by the disputant / present applicant. Respondent No.2 who is Secretary of the respondent No.1 society is Director of respondent No.11 Company. The respondent No.1 society has made entry in the Share certificate. The entry is affected behind the back of applicant. The society has not issued any notice/intimation to the applicant before making the entry in the share certificate and the disputant has challenged this act of respondent no.1 society. Therefore, respondent No.11 is not necessary or proper party to the dispute. Respondent no.1 society is representing the respondent No.11. This fact is revealed from the reply filed by the respondent no.1 society. The application for intervention filed by the respondent No.11 at very belated stage i.e. after completion of arguments on interim relief application Exh.5. Considering the scope of dispute the respondent no.1 society can represent the respondent No.11.

12) Ld. Advocate Smt. Drishti Irani for respondent Nos.1 to 4 and 6 to 9 argued that by resolution dated 08/08/2023 the respondent no.1 society has admitted the respondent No.11 company as member of the respondent no.1 society. The order if any, passed in dispute No.362/2025 will directly affect the rights and interest of respondent

No.11 company. The membership flows from ownership. Whole issue revolves around the ownership of respondent No.11 of the disputed flat. Therefore, respondent No.11 is necessary party to the dispute.

13) Ld. Advocate Shri. Vishal Pattabiraman i/b. M/s. Sonal Doshi and Co. for respondent No.11 company argued that the respondent No.11 has purchased disputed flat on 31/03/2022 under E-auction conducted by the Hon'ble Debt Recovery Tribunal (DRT) and all rights, title and interest in the disputed flat are vests with the respondent No.11 company. The sale of disputed flat is confirmed upto the Hon'ble Supreme Court. The disputant has not right, title or interest in the disputed flat. Therefore, he has no locus standi to file the dispute. The disputant / applicant had an outstanding of Rs.41,83,366/- as on 31/08/2021 towards the maintenance of the said flat for the period prior to when the said flat was handed over to the receiver appointed by the DRT. The respondent No.11 company has repaid the entire outstanding amount along with interest. The disputant /applicant is filing multiple frivolous applications and proceeding in respect of disputed flat. After purchase of the disputed flat in E-auction and by completing all necessary formalities the respondent No.11 company has applied for the membership to the respondent No.1 society and by following due process of law, respondent no.1 society has passed the resolution dated 08/08/2023 and admitted respondent No.11 company as member for disputed flat No.37 and necessary entries have been made in the record of society including the share certificate and the

disputant has challenged the resolution dated 08/08/2023 and entries of name of respondent No.11 company in the share certificate of the disputed flat. As such, the disputant is directly challenging the membership of respondent No.11 company to the disputed flat and if any order is passed in the dispute, then the rights and interest of the respondent No.11 company will be affected. Hence, respondent No.11 company is the necessary party to the dispute.

14) From perusal of dispute application, it is seen that dispute is filed for declaration and injunction with respect to flat No.37. Disputant prayed for following reliefs:-

(a) To declare that the impugned resolution dated 08/08/2023 passed by the opponent No.1 society and the purported transfer entry in the share Certificate No.41 to the extent of adding the name of Acrynova Industries Pvt. Ltd., are illegal, null and void ab initio.

(b) To pass orders in form of direction to opponent Nos.1 to 9 to forthwith reverse and set aside the illegal and unauthorised entry made in the Share Certificate No.41 transferring the said flat to M/s. Acrynova Industries Pvt. Ltd. and to restore the status quo ante in respect of said property.

(c) To pass appropriate directions restraining the opponent Nos.1 to 9 from giving effect to any further transfer or alienation of the said flat or its shares and/or acting upon the resolution dated 08/08/2023 pending the disposal of dispute.

(d) To restrain opponent Nos.1 to 9 from giving effect to the creation of any encumbrance/mortgage of any financial institution on the said flat alienation of the said flat or its shares, pending disposal of dispute.

15) It is fact that respondent No.11 company has purchased dispute flat No.37 in the E-auction and Sale Certificate is issued in favour of the respondent No.11. This sale certificate is in existence and as on today and on the date of filing of the dispute the respondent No.11 company is owner of disputed flat No.37.

16) From perusal of the copy of proceeding of meeting dated 08/08/2023, by resolution No.11 the respondent No.1 society granted the membership to respondent No.11 company for disputed flat No.37 and it is also decided to enter the name of respondent No.11 company in the record of society including share certificate as member of disputed flat No.37.

17) From perusal of copy of share certificate No.41, it is seen that on 08/08/2023 the shares are transferred in favour of respondent No.11 company and name of respondent No.11 company is entered as member for disputed flat No.37.

18) By filing this dispute the disputant had challenged the resolution dated 08/08/2023 and entry of respondent No.11 company's name in the share certificate No.41 in respect of disputed flat No.37.

19) In view of above facts, it is held that the award if any passed in dispute No.362/2025 then that will directly affect the rights and

interest of respondent No.11 company and to decide all questions in controversy between the parties in dispute No.362/2025, the respondent No.11 company is a necessary party and in absence of respondent No.11 company as a party to the dispute No.362/2025, all questions in controversy between the parties to the dispute cannot be finally decided on merits.

20) Ld. Trial Court has considered all these aspects in their proper prospective and rightly exercised the power vested in it under section 94(3)(c) of the MCS Act, 1960 and allowed the intervention application of respondent No.11 company. Hence, interference by this court is not required in the impugned order. Hence, I answer point nos.1 and 2 in the affirmative, 3 in the negative and in answer to point No. 4, I proceed to pass the following order :-

ORDER

Revision application No.1 of 2026 is rejected with cost.

Mumbai
13th April, 2026

(A.S. Wanve)
Member-2,
Mh.State Co-operative Appellate Court,
Mumbai.

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT /ORDER.”

13/04/2026
UPLOAD DATE

(A.S. SAWANT)
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	Shri. A. S. Wanve (C.R. No.2) Member-2
Date of pronouncement of Judgment/Order	13/04/2026
Order signed by P.O. on	13/04/2026
Order uploaded on	13/04/2026