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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (ST) NO.9918 OF 2026
IN
INTERIM APPLICATION NO.256 OF 2026
IN
WRIT PETITION NO.1561 OF 2013

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Abha Dastane Rao

Applicant/Orig.
... Respondent No.35

In the matter between

The Maharashtra Executor & Trustee
Co. Private Limited

... Petitioners

V/s.

Dr. Shubhada Mithilesh & Others

... Respondents

Ms. Abha Dastane-Rao for the applicant/review
petitioner.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 18, 2026.

PRONOUNCED ON : MAY 5, 2026

JUDGMENT:

1. The present proceeding is a petition seeking review of the order dated 21 January 2026 passed in Interim Application No. 256 of 2026 in Writ Petition No. 1561 of 2013.

2. The grievance of the review petitioner is directed against the revocation of permission earlier granted to her to appear and argue as party in person. The foundation of the review is laid on alleged absence of jurisdiction, procedural irregularity in



circulation, and resulting prejudice.

3. The review petitioner submits that on the relevant date the matter was not within the assignment of this Court. It is stated that as per roster, the matter was required to be placed before another bench. It is further stated that circulation came to be made before this Court by mistake. The petitioner asserts that she was constrained to appear, as no response was received to her praecipe and the position on the official website did not clarify listing. This submission proceeds on the footing that the order is rendered without jurisdiction and therefore is liable to be treated as non est.

4. This Court has considered the said submission. The bench which has taken up the matter and passed an order cannot be said to have acted wholly without jurisdiction when cooperative society was party to the petition and the assignment on that day for civil writ petitions relating to co-operative societies from the year 2011 year on wards was with same bench.

5. The petitioner has referred to the difficulty arising out of simultaneous proceedings at Pune. It is stated that the matter there was fixed and could not be adjourned. The petitioner travelled to Mumbai to seek accommodation of dates. This explanation reflects the practical difficulty faced by the litigant. However, such difficulty does not directly affect the legality of the order under review.

6. The further submission relates to alleged prejudice and conduct of other parties. Allegations are made regarding collusion and misuse of proceedings. However, in a review proceeding, the



Court is confined to examining error apparent on the face of record or other limited grounds. Disputed questions relating to conduct of parties cannot be adjudicated in the present jurisdiction.

7. The issue which emerges is regarding the permission to appear and argue as party in person. Such permission is not absolute. It is regulated by the applicable rules governing appearance of parties in person before this Court. The present record is also not sufficient for this Court to determine whether the petitioner satisfies all required conditions for continuing as party in person.

8. This Court is of the view that the question, whether the petitioner should be permitted to appear and argue in person requires a fresh consideration. Such consideration must be based on the factors including identity and locus of the applicant, procedural compliance, reasons for not engaging an advocate, ability to assist the Court, nature of the proceedings, conduct in pleadings, and willingness to abide by discipline of Court.

9. On the basis of the notification dated 9 September 2015 inserting Chapter IV-A in the Bombay High Court Appellate Side Rules, 1960, the Registrar, or the scrutiny committee working through the Registry, is required to consider the following points when a party seeks permission to appear and argue in person:

- (i) Whether the applicant is a party to the proceedings: The applicant must be a party on record in the matter in which permission is sought. The application must tally with



the cause title and record.

(ii) Whether the request is made in the proper form and along with the proceedings: The party must file the application along with the proceedings. The request should not be oral. It must be placed in the prescribed manner so that the Registry can process it and place it before the committee.

(iii) Whether reasons have been stated for not engaging an advocate: The application must disclose reasons as to why the applicant cannot engage an advocate. The committee has to see whether the explanation is genuine and sufficient.

(iv) Whether the party is willing to argue personally and also accept assistance, if necessary: The application must show whether the party truly desires to appear and argue in person. It must also indicate whether the party is willing to accept an advocate appointed by the Court, if the Court considers such course necessary.

(v) Whether the matter is one in which personal appearance is procedurally workable: The committee must examine the nature of the proceedings. Some matters may involve complexity or technical questions. The committee need not decide the issue, but it must flag such matters for the Court.

(vi) Whether the party has complied with the Bombay High Court Appellate Side Rules, 1960: The scrutiny must ensure compliance with the relevant procedural requirements of the



Appellate Side Rules. If there is any non-compliance in filing, format, accompanying papers, service particulars, or related procedural requirements, the same must be noted.

(vii) Whether the party has made any objectionable averments or allegations: The scrutiny committee is required to see whether the party has made any objectionable averments or allegations in the pleadings. If such material exists, it must be brought to notice before permission is granted.

(ix) Whether the party has used unparliamentary or improper language: The committee must verify whether the party has used unparliamentary language in the pleadings. The use of such language is relevant to the question, whether the party can be entrusted with conduct of proceedings in person.

(x) Whether the party appears competent to assist the Court: Competency here does not mean legal expertise alone. The committee must form an opinion whether the party is capable of assisting the Court in a meaningful manner. The concern is whether the person can place the facts, and maintain relevancy.

(xi) Whether an office report should record the committee's opinion: The notification contemplates an Office Report by the Committee. Therefore, the Registry must ensure that the scrutiny results in a report stating whether the party appears competent, whether the rules are complied with, and



whether any objectionable conduct is noticed.

(xii) Whether a legal aid reference is necessary: If the party is not certified as competent, or if the Court so requires, the matter may be referred to the High Court Legal Aid Services Committee for offering legal services to the litigant, provided the litigant is entitled to such assistance.

(xiii) Whether the party must be asked to appoint a lawyer: If the litigant is not entitled to legal aid assistance, the Rules contemplate that he may be asked to appoint a lawyer to represent the case. The Registrar/Committee must therefore note whether the facts attract this course.

(xiv) Whether the party must give an undertaking of decorum: Where the party is certified as competent to assist the Court in person, an undertaking becomes necessary. The party must undertake to maintain the decorum of the Court and not to use objectionable averments/ allegations or unparliamentary language or behavior in Court, in Court premises, or in pleadings.

(xv) Whether the case falls within an excluded category: The Rules expressly state that they do not apply to applications for temporary bail, parole, furlough, and habeas corpus. The Registrar must first check whether the matter falls in such excluded class. If it does, these special Rules for party-in-person do not govern the request.

(xvi) Whether the Court has discretion to permit appearance notwithstanding the Rules: Even where the Rules apply, the



concerned Court retains discretion to permit a litigant to appear in person and conduct the proceedings.

(xvii) Whether the Court should first require appearance before the scrutiny committee: The Rules also permit the Court to require the litigant first to appear before the scrutiny committee under Rule 2 or Rule 3.

(xviii) Whether failure to comply may attract consequences: If the party fails to abide by the undertaking or conduct conditions, contempt proceedings may follow and costs may also be imposed. The Registry/ committee should keep this in view while recording the report, especially where the conduct of the party shows a tendency to misuse the liberty.

10. In the present case, such exercise has not been undertaken. The review jurisdiction is not intended to substitute such process. Therefore, instead of entering into a final determination on merits of the request, it would be appropriate to direct the petitioner to invoke the proper procedure afresh.

11. Accordingly, the review petition is disposed of with a direction that the petitioner shall file a fresh application seeking permission to appear and argue as party in person. Upon such application being filed, the same shall be processed by the Registry in accordance with the applicable rules. The scrutiny shall be undertaken having regard to all considerations, including those enumerated in paragraph 9 above. An appropriate report shall thereafter be prepared by the committee.



12. It is clarified that this Court has not expressed any final opinion on the entitlement of the petitioner to appear in person.

13. It is clarified that any subsequent application seeking permission to appear and argue the matter in person shall be considered and decided in accordance with the parameters set out in paragraph 9 hereinabove.

14. With the above directions, the review petition stands disposed of.

(AMIT BORKAR, J.)