

Shashin Patel and Anr.

v.

Uday Dalal and Ors.

(Civil Appeal No. 795 of 2026)

05 February 2026

[Vikram Nath and Sandeep Mehta,* JJ.]

Issue for Consideration

Whether the belated prayer of the appellants in Civil Appeal No. 795 of 2026, being the successors-in-interest of 'NP', to gain membership in the Society by making payment at a highly belated stage, could have been accepted by the Joint Registrar.

Headnotes[†]

Maharashtra Co-operative Societies Act, 1960 – 'NP'- Predecessor-in-interest of the appellants was in occupation of Flat No.7 in the building in the Co-operative Housing Society (Society-respondent No.7) as a tenant thereof – Dispute *inter se* parties pertains to Flat No.7 and the claim of the appellants for grant of membership of the society – Allegedly there was disinclination on the part of 'NP' to make the requisite contribution be admitted as a member thereof and he conveyed his intention to continue as a tenant of the Society – Appellants in Civil Appeal No. 795 of 2026 initiated steps for being admitted as members of the Society and filed an application before the Authorised Officer of the Society – However, the Authorised Officer informed the appellants that he was not empowered to take any policy decision and, therefore, could not decide the appellants' application for membership – Appellants filed appeal before the Deputy Registrar, Co-operative Societies u/s.23(2) – Deputy Registrar directed the Authorised Officer to convene a Special General Body Meeting (SGBM) of the Society for taking a decision on the appellants' application for membership within thirty days – Appellants filed Revision before the Divisional Joint Registrar, allowed and the appellants were *inter alia* directed

* Author

Supreme Court Reports

to be admitted as joint-members of the Society in respect of Flat No.7 – Challenged by three members of the erstwhile society (respondent Nos.1-3 herein), Writ Petition filed before the High Court – In the interregnum, the appellants conveyed the flat in question to one M/s. Capital Mind Advisory Services Private Limited (appellant in Civil Appeal @ SLP (Civil) No.36057 of 2025) – High Court partly allowed the writ petition:

Held: Peaceful possession and occupation of 'NP' and, thereafter, his legal heirs, *i.e.* the appellants in Civil Appeal 795 of 2026, over Flat No.7 has never been in question – The Society, in its AGM held on 30.09.2025, resolved to re-affirm the proceedings and decisions of the AGM dated 11.08.2005, and the membership of the appellants in Civil Appeal 795 of 2026 was accepted by the General Body as being legal and valid – Furthermore, it also accepted and approved the membership of M/s. Capital Mind Advisory Services Private Limited, in respect of Flat No.7 in its AGM held on 30.09.2025 – High Court, while allowing the writ petition filed by respondent Nos.1-3, reasoned that the Joint Registrar had acted in excess of his jurisdiction in directing the Authorised Officer of the society to grant membership to the appellants in Civil Appeal 795 of 2026 – However, such a conclusion cannot be countenanced in view of the fact that the appellants in the said appeal had initially approached the Authorised Officer of the society by way of an application seeking membership, which was refused on the ground that he did not have the jurisdiction to take policy decisions – It was only thereafter that the appellants in the said civil appeal availed of the statutory remedies of appeal and revision provided under the MCS Act, 1960 – Furthermore, in view of the decision taken by the General Body in the AGM dated 30.09.2025, the membership of the appellants in the said civil appeal has already been ratified – Hence, the reasoning adopted by the High Court is unsustainable in law and cannot be upheld – The entitlement of the appellants as members of the Society is recognized – Thus, the subsequent transfer of Flat No.7 in favour of M/s. Capital Mind Advisory Services Private Limited, by a registered Deed of Transfer and the consequential admission of the said transferee as a member of the Society, which has already been ratified by the General Body in its AGM held on 30.09.2025, must necessarily stand recognised in law –

Shashin Patel and Anr. v. Uday Dalal and Ors.

Impugned judgment of the High Court set aside to the extent of Para Nos.58 (ii) to (i). [Paras 42-46]

List of Acts

Maharashtra Co-operative Societies Act, 1960.

List of Keywords

Co-operative Housing Society; Membership in the Co-operative Housing Society; Membership in the Co-operative Housing Society ratified; Members of the Co-operative Housing Society; Delayed payment of the membership fee; Payment at a highly belated stage; General Body in the AGM; Peaceful possession and occupation; Deputy Registrar, Co-operative Societies; Authorised Officer of the Co-operative Housing Society; Joint Registrar of the Co-operative Housing Society; Special General Body Meeting (SGBM) of the Co-operative Housing Society.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 795 of 2026

From the Judgment and Order dated 19.11.2025 of the High Court of Judicature at Bombay in WP No. 9470 of 2025

With

Civil Appeal No. 796 of 2026

Appearances for Parties

Advs. for the Appellant(s):

Shyam Divan, Rudreshwar Singh, Balbir Singh, Sr. Advs., Ms. Tushita Ghosh, Aniruddha Choudhury, Rohit, Pranav Deshmukh, Ms. Tanishka, Mahesh Agarwal, Rishi Agrawala, Himanshu Saraswat, Ms. Bedotroyi Gupta, Ms. Pratima Mishra, E. C. Agrawala.

Advs. for the Respondent(s):

Dhruv Mehta, Neeraj Kishan Kaul, Aniruddha Joshi, Sr. Advs., Deeptakirti Verma, Ms. Neha Sharma, Ms. Nishi Sangtani, Subhoday Banerjee, Aayush Agarwala, Yash Dhruva, Shlok Parekh, Aman Shekhar, Deeptakirti Verma, Ms. Neha Sharma, Subhoday Banerjee, Aayush Agarwala, Yash Dhruva, Shlok Parekh, Aman Shekhar, M/s. PBA Legal.

Supreme Court Reports**Judgment / Order of the Supreme Court****Judgment****Mehta, J.**

1. Heard.
2. Leave granted.
3. At the outset, it is apposite to note that Shri Neeraj Kishan Kaul, learned senior counsel representing respondent Nos.1 to 3, namely, Uday Dalal, Ajay Biyani and Rina Pritish Nandy, and Shri Dhruv Mehta, learned senior counsel representing respondent No.7-Malboro House Co-operative Housing Society Limited¹, entered appearance before this Court on caveat and were accordingly heard.
4. Shri Neeraj Kishan Kaul, learned senior counsel representing the contesting respondent Nos. 1-3 (writ petitioners before the High Court), emphatically submitted that the said respondents are not desirous of filing any reply/counter affidavit and that the matter may be heard as it stands. Accordingly, we have heard the arguments advanced by the learned counsel for the appellants as well as learned counsel for the contesting respondents on merits.
5. These two appeals by special leave call into question the judgment dated 19th November, 2025 passed by the learned Single Judge of the High Court of Judicature at Bombay² in Writ Petition No.9470 of 2025. The dispute *inter se* parties pertains to Flat No. 7 situated in the building known as Malboro House, located at 3-D, Dr. Gopalrao Deshmukh Marg, Peddar Road, Mumbai - 400026, and the claim of the appellants for grant of membership of the society.
6. Malboro House Co-operative Housing Society Limited (respondent No.7) stands on a parcel of land situated at 3-D, Dr. Gopalrao Deshmukh Marg, Peddar Road, Mumbai - 400026. The building comprises of seven residential flats. The property was originally owned by Smt. Soonabai Seervai, who conveyed her right, title, and interest therein to M/s. Kamani Brothers Pvt. Ltd. The occupants of

1 Hereinafter, referred to as 'the Society'.

2 Hereinafter, referred to as the "High Court".

Shashin Patel and Anr. v. Uday Dalal and Ors.

all seven flats, including Shri Narendra Patel (predecessor-in-interest of the appellants in Civil Appeal @ SLP(Civil) No. 36106 of 2025), were tenants under M/s. Kamani Brothers Pvt. Ltd.

7. M/s. Kamani Brothers Pvt. Ltd. went into liquidation, and consequential proceedings were initiated before the learned Company Judge of the High Court. The company had outstanding liabilities, particularly towards the KEC International Ltd. Employees' Gratuity Fund, approximately to the tune of Rs.61,36,000/-, which were required to be settled in the course of the liquidation proceedings. The subject building was under charge for recovery of the said amount.
8. The tenants occupying the seven flats collectively resolved to form a cooperative housing society and submitted a proposal before the learned Company Judge seeking conveyance of the said land and building to the society. The proposal was accepted and, pursuant to the order passed by the Company Judge and upon payment of a sum of Rs.15 Lacs by the Society, the Official Liquidator executed a deed of conveyance dated 31st May, 1995 in favour of the Chief promoters, namely, Shri S. Agarwal and Shri Ashwin Parekh of the proposed Kamani House Co-operative Housing Society Limited, which was later rechristened as Malboro House Co-operative Housing Society Limited (respondent No.7).
9. Indisputably, Shri Narendra Patel, being the predecessor-in-interest of the appellants (Shashin Patel and Bhavini Patel) in Civil Appeal @ SLP(Civil) No. 36106 of 2025, was in occupation of Flat No.7 as a tenant thereof. The occupants of the remaining six flats, excluding Shri Narendra Patel, made a collective contribution as mentioned above to be paid to the Official Liquidator towards settlement of the claims of KEC International Ltd. Employee's Gratuity Fund. The Chief Promoter of the Society addressed repeated communications to Shri Narendra Patel, calling upon him to contribute his share, quantified at Rs.5,00,000/-, towards induction in the Society and informing him that upon payment of the said amount, he would be admitted as a member thereof.
10. It is the case of the promoters that Shri Narendra Patel expressed his disinclination to make the requisite contribution and conveyed his intention to continue as a tenant of the Society. This assertion is disputed by the appellants in Civil Appeal @ SLP(Civil) No. 36106 of 2025, being the successors of Shri Narendra Patel, who contend

Supreme Court Reports

that he had expressed readiness and willingness to make the said contribution, subject to the promoters furnishing necessary particulars and justification for the quantification of the amount so demanded.

11. The administration of the Society ran into heavy weather and elections to the Managing Committee were not conducted regularly whereupon, one of the members of the Society namely, Rina Prithish Nandy (respondent No.3 herein), raised a grievance before the Deputy Registrar, Cooperative Societies, D Division, Mumbai, alleging that new committee had not been elected upon expiry of the term of the Managing Committee which was perpetuating itself illegally. The Deputy Registrar, acting on the aforesaid complaint, issued a show cause notice on 17th February, 2025, and eventually passed an order on 28th February, 2025, appointing an Authorised Officer as Administrator to manage the affairs of the Society for the reason that the erstwhile Committee had ceased to function and there was a vacuum in the management. The Authorised Officer was further directed to hold elections for constituting the Managing Committee within a period of three months from the date of the said order.
12. Aggrieved by the aforesaid order, respondent Nos.1 and 2, along with Raghu Palat, another member of the Society, preferred an appeal before the Divisional Joint Registrar under Section 152 of the Maharashtra Co-operative Societies Act, 1960³. The said appeal came to be dismissed by order dated 11th March, 2025 with the Divisional Joint Registrar finding no infirmity in the order passed by the Deputy Registrar, particularly in view of the fact that elections to constitute the Managing Committee had not been held in accordance with the provisions of the MCS Act, the Rules framed thereunder, and the Bye-laws of the Society.
13. In the meanwhile, the appellants in Civil Appeal @ SLP(Civil) No. 36106 of 2025 initiated steps for being admitted as members of the Society and, to that end, filed an application dated 11th March, 2025, before the Authorised Officer of the Society. Cheques drawn towards the share capital, admission fee, and the contribution of Rs.5,00,000/- were enclosed with the said application. However, by a communication dated 17th March, 2025, the Authorised Officer

3 For short, 'MCS Act'.

Shashin Patel and Anr. v. Uday Dalal and Ors.

informed the appellants that he was not empowered to take any policy decision and, therefore, could not decide the appellants' application for membership.

14. Aggrieved thereby, the said appellants preferred an appeal before the Deputy Registrar, Co-operative Societies under Section 23(2) of the MCS Act. By order dated 4th April, 2025, the Deputy Registrar disposed of the said appeal with a direction to the Authorised Officer to convene a Special General Body Meeting (SGBM) of the Society for taking a decision on the appellants' application for membership within a period of thirty days.
15. Dissatisfied with the aforesaid disposition, the appellants preferred Revision Application No.138 of 2025 before the Divisional Joint Registrar under Section 154 of the MCS Act. Upon hearing the appellants and the Authorised Officer appearing for and on behalf of the Society, the Divisional Joint Registrar, by order dated 23rd April, 2025, allowed the revision. While doing so, the Revisional Authority noted, *inter alia*, that the material on record indicated that in the Annual General Meeting (AGM) of the Society held on 11th August, 2005, a resolution had been passed to admit Shri Narendra Patel as a member upon receipt of the requisite payment. It was further observed that the Deputy Registrar had failed to verify the relevant record and had overlooked the fact that the premises of the Society had been acquired for and on behalf of the tenants. For these reasons, the Divisional Joint Registrar concluded that the appellants, being the *bona fide* occupants of Flat No. 7, were entitled to be admitted as members of the Society. Consequently, the appellants, namely, Shashin Patel and Bhavini Patel were directed to be admitted as joint-members of the Society in respect of Flat No.7, and the Respondent No. 7-Society/Authorised Officer was directed to issue the share certificate in their favour by making the requisite entries in the "I" and "J" Registers and other relevant books and records of the Society.
16. It would be apposite to mention here that after the order dated 23rd April, 2025, passed by the Divisional Joint Registrar allowing the revision filed by appellants in Civil Appeal @ SLP(Civil) No. 36106 of 2025, respondent Nos. 1 to 3 also instituted an eviction suit, being RAE No. 590 of 2025 in the Court of Small Causes, Mumbai, praying for a decree of eviction and injunction. The foundation of

Supreme Court Reports

the said suit was allegedly a forged and fabricated letter, written by Shri Narendra Patel way back in 1995, which stated that he had declined to accept the membership and expressed his willingness to continue as a tenant. The appellants claim that they became aware of these facts only upon receipt of the copy of the plaint and the accompanying documents. The said suit is still pending before the Court of Small Causes, Mumbai.

17. Being aggrieved by the orders dated 11th March, 2025 and 23rd April, 2025 passed by the Divisional Joint Registrar, three members of the erstwhile society, namely, Uday Dalal, Ajay Biyani and Rina Prithvi Nandy (respondent Nos. 1-3 herein) filed the captioned Writ Petition No. 9470 of 2025 before the High Court impleading the Divisional Joint Registrar, the Deputy Registrar, Malboro House Co-operative Housing Society Limited, the Administrator, and the appellants (Shashin Patel and Bhavini Patel) as party respondents.
18. It may also be noted that, in the interregnum, the appellants (Shashin Patel and Bhavini Patel) conveyed the flat in question to M/s. Capital Mind Advisory Services Private Limited (appellant in Civil Appeal @ SLP (Civil) No.36057 of 2025) by a registered sale deed. The No Objection Certificate of the Society for the said transfer was obtained by the appellants through the Administrator by communication/letter dated 26th May, 2025.
19. The High Court, by the impugned order dated 19th November, 2025, partly allowed the writ petition in the following terms: -
 - “Hence, the following order:
 - (i) The Petition stands partly allowed.
 - (ii) The impugned order dated 23rd April 2025 passed by the Joint Registrar in Revision Application No. 138 of 2025 admitting the Respondent Nos. 6 and 7 jointly as member of the Society (R4) stands quashed and set aside.
 - (iii) All consequential actions taken pursuant to the aforesaid order dated 23rd April 2025 also stand quashed and set aside.
 - (iv) The order passed by the Deputy Registrar in the Appeal No. 34 of 2025 dated 4 April 2025 stands restored.

Shashin Patel and Anr. v. Uday Dalal and Ors.

(v) A Special General Meeting of the Society (R4) be convened by the Authorised Officer and the Society (R4) shall take a decision on the Application of the Respondent Nos. 6 and 7 to grant the membership of the society (R-4), within a period of four weeks from today.

(vi) The said meeting shall be presided over by the Authorised Officer. However, only the members of the society (R4) shall be entitled to vote in the said meeting. Respondent Nos. 6 and 7 jointly or Respondent No. 9 shall not be eligible to participate in the said Special General Body Meeting.

(vii) The challenge to the order dated 11th March 2025 in Appeal No. 69 of 2025 stands dismissed.

(vii) The original Minute Book produced by the Assistant Registrar/Authorised Officer, be returned to the Authorised Officer after keeping a true copy of the Resolution dated 11th August 2005 on record.

(ix) Rule made absolute to the aforesaid extent.

No costs.”

20. The aforesaid order dated 19th November, 2025 passed by the learned Single Judge of the High Court is the subject matter of challenge in Civil Appeal @ SLP (Civil) No.36106 of 2025 preferred by the original respondent Nos.6 and 7 before the High Court, namely, Shashin Patel and Bhavini Patel, and Civil Appeal @ SLP (Civil) No.36057 of 2025 preferred by the subsequent purchaser M/s. Capital Mind Advisory Services Private Limited.

Submission on behalf of the appellants

21. Learned counsel appearing on behalf of the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025, being the legal heirs of late Shri Narendra Patel, vehemently and fervently urged that the Society had already taken a decision on 11th August, 2005, to admit Shri Narendra Patel, the original occupier of Flat No.7 and predecessor-in-interest of the appellants as a member of the society. He was at all times ready and willing to make the requisite contribution towards acquiring membership of the Society. It was urged that the *bona fide* request

Supreme Court Reports

made by Shri Narendra Patel for being furnished the particulars and basis of calculation of the amount demanded was not acceded to by the chief promoters and, as a result, the payment could not be made.

22. It was urged that although the High Court noticed the aforesaid contentions, it failed to appreciate the same in the correct perspective. It was further submitted that the factum of mismanagement in the affairs of the Society is not in dispute and, in fact, stands affirmed in the impugned judgment. Attention of the Court was drawn to the complaint lodged by one of the members of the Society, namely, Rina Prithish Nandy (respondent No.3), to the Deputy Registrar, alleging that despite the expiry of the term of the Managing Committee, elections were not being conducted and that the existing members were illegally continuing to run the affairs of the Society. Acting thereon, the Deputy Registrar issued a show cause notice and, upon conducting an enquiry, found the allegations to be substantiated. Consequently, by order dated 28th February, 2025, an Authorised Officer was appointed to manage the affairs of the Society. These findings have been affirmed by the High Court. It was, therefore, contended on behalf of the appellants that in view of the mismanagement by those at the helm of the affairs of the Society and failure to furnish the requisite details to Shri Narendra Patel, the amount demanded towards securing membership in respect of Flat No.7 could not be deposited.
23. It was submitted that the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025, being the legal heirs of late Shri Narendra Patel, approached the Authorised Officer seeking permission to deposit the requisite amount towards share money and admission fee. Upon the Authorised Officer expressing his inability to take a decision on the issue, the appellants approached the Deputy Registrar by preferring an appeal under Section 23(2) of the MCS Act.
24. The Deputy Registrar disposed of the said appeal by order dated 4th April, 2025, issuing a positive direction to the Authorised Officer to convene a Special General Board Meeting of the Society for taking a decision on the appellants' application seeking the grant of membership. However, the fact remains that the affairs of the Society were in a disarray, and the meeting could not be convened. Thus, aggrieved, the appellants preferred a revision before the Divisional Joint Registrar, which came to be allowed by order dated 23rd April, 2025, taking note of the fact that the AGM of the Society held on

Shashin Patel and Anr. v. Uday Dalal and Ors.

11th August, 2005 had already resolved to admit Shri Narendra Patel as a member.

25. It was urged by learned counsel for the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025 that once the Society itself had drawn a conscious and considered resolution dated 11th August, 2005, to admit Shri Narendra Patel as a member, and since the said resolution had never been revoked, recalled or challenged before any forum, the delay in depositing the requisite amount could not be used to defeat the rights flowing therefrom. It was further submitted that the appellants have already deposited the amount of Rs.5,00,000/- along with interest calculated at the rate of 9% per annum and, as a consequence, their membership in the Society stood duly affirmed.
26. It was also contended that the objections raised by the writ petitioners and certain other members of the Society to the admission of the appellants as members were misconceived and legally untenable. It was urged that, at the highest, the Society could only seek payment of some additional amount or enhanced interest from the said appellants in order to compensate for the delay in making the payment.
27. Shri Balbir Singh, learned senior counsel appearing on behalf of the appellant-M/s. Capital Mind Advisory Services Private Ltd. (subsequent purchaser) in Civil Appeal @ SLP (Civil) No.36057 of 2025, contended that, indisputably, Shri Narendra Patel had been in occupation of Flat No.7 as a tenant under M/s. Kamani Brothers Private Limited for several decades and, therefore, his right to seek admission to membership of the Society could not be defeated merely on the ground that he had sought particulars of calculation of the amount of Rs.5,00,000/- demanded from him.
28. It was further submitted on behalf of the appellants in both the civil appeals that by effect of the order of the High Court, the registered sale deed executed in favour of M/s. Capital Mind Advisory Services Private Limited (the appellant in Civil Appeal @ SLP(Civil) No. 36057 of 2025) has been nullified, a consequence which cannot be countenanced in the eyes of law.
29. Learned counsel for the appellants vehemently contended that the factum of the eviction suit filed before the Court of Small Causes, Mumbai, was not disclosed by respondent Nos.1-3 (writ petitioners before the High Court) in the pleadings of the writ petition, and on this ground alone, the writ petition ought to have been dismissed.

Supreme Court Reports

Without prejudice to the above contention, it was further submitted that the issues relating to the status of Shri Narendra Patel, his legal heirs, and the subsequent purchaser of Flat No.7 ought to have been adjudicated in the eviction suit itself, which would necessarily have to be decided on the basis of evidence led by the parties therein. It was argued that the High Court was not justified in entertaining the writ petition involving serious disputed questions of fact, which required evidence to be adduced by the parties, and therefore, the impugned order is unsustainable in the eyes of the law.

30. It was, thus, urged by the learned counsel for the appellants that the impugned order is arbitrary and unjust, as the same fails to strike a balance in equities. On these grounds, they implored the Court to set aside the impugned order and allow the appeals.

Submission on behalf of the respondents

31. *Per contra*, Shri Neeraj Kishan Kaul, learned senior counsel appearing on behalf of respondent Nos.1 to 3, being the writ petitioners before the High Court, vehemently and strenuously contested and countered the submissions advanced on behalf of the appellants. He submitted that the case set up by the appellants is full of falsehoods and is tainted by concealment of material facts. It was urged that Shri Narendra Patel, the original occupant of Flat No.7 and predecessor-in-interest of the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025, had consciously avoided depositing the contribution amount, which had been equitably apportioned amongst the flat-occupants towards acquisition of the building through the Society. The argument raised that the amount was not paid as the account details had not been provided, is flimsy, far-fetched, and untenable.
32. It was further urged that since Shri Narendra Patel did not deposit his contribution to gain membership of the society, the remaining six members of the Society were constrained to contribute amounts in excess of their respective shares for the purpose of acquiring the building which they were occupying as tenants of the Company M/s. Kamani Brothers Private Limited, which had gone into liquidation. These six members acted in a *bona fide* manner to save the building which faced imminent likelihood of being auctioned for recovery of the statutory dues of the company. It was contended that Shri Narendra Patel tried to wriggle out his obligations towards the collective

Shashin Patel and Anr. v. Uday Dalal and Ors.

contribution by using a subterfuge of seeking the account details and, in that manner, avoided payment of the amount for induction as a member of the Society for over two decades.

33. Shri Kaul further submitted that the grant of membership to the appellants by the Revisional Authority virtually tantamounts to encroachment on the autonomy of the Society and grants immunity to the fraudulent stand of Shri Narendra Patel, who continued to remain in occupation of Flat No.7 without contributing a dime towards his share in the collective acquisition of the property, the burden whereof was borne by the remaining members under compulsion. It was urged that the belated attempt on the part of the appellants to deposit the originally quantified amount of Rs.5,00,000/- towards gaining membership ought to have been repelled outright, as such payment was made only with a view to secure and safeguard their future interest in the property and to keep alive a speculative claim over the same, rather than in *bona fide* compliance with the demand raised in the year 2005. He submitted that the cost of the property has risen exponentially over the years and thus, the appellants cannot be allowed to walk away with the membership of the Society by merely making payment of the original amount of Rupees Five Lakhs with paltry interest.
34. He urged that the Joint Registrar lacked jurisdiction to grant membership to the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025, the same being a matter falling exclusively within the domain of the Society. It was further submitted that the judgment rendered by the High Court, whereby the order passed by the Joint Registrar was set aside, is just and proper and does not call for any interference in exercise of the extraordinary jurisdiction conferred upon this Court under Article 136 of the Constitution of India.
35. Shri Kaul, responding to the plea set up by the appellant-M/s. Capital Mind Advisory Services Private Ltd. in Civil Appeal @ SLP(Civil) No.36057 of 2025 submitted that the said appellant is nothing but a speculative property dealer and had consciously purchased the property under litigation with full knowledge of the pending disputes in relation to the membership of the Society. It was contended that the belated and time-barred deposit of the membership amount was made at the instance of the said appellant and, in these circumstances, it could not claim any equitable relief to validate the sham transaction.

Supreme Court Reports

36. Respondent No.7-Society, acting through the Administrator, is represented by Shri Dhruv Mehta, learned senior counsel, who on instructions, fully supported the cause of the appellants. Shri Mehta urged that there was no illegality in the order admitting the successors of Shri Narendra Patel as members of the Society and, as a consequence thereof, the conveyance deed dated 26th May, 2025, executed by Shashin Patel and Bhavini Patel in favour of M/s. Capital Mind Advisory Services Private Limited is valid in the eyes of law.
37. He further submitted that, as law does not prohibit admission of the appellants as members at a belated stage, the Society may raise a claim for higher interest or penal charges on the amount originally determined in the year 1995 for the grant of membership. Since the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025 have already deposited the membership amount, calculating interest at the rate of 9%, there is no difficulty in accepting their membership claim. He urged that, at best, the members of the Society, objecting to the claim for membership made by the said appellants, may have a cause to agitate for enhanced interest on the delayed payment of the membership fee. Such issues can be raised and settled in the AGM of the Society.

Discussion and Analysis

38. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the material placed on record. We have also carefully perused the impugned judgment.
39. The short controversy which falls for consideration of this Court in these appeals is whether the belated prayer of the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025, being the successors-in-interest of Shri Narendra Patel, to gain membership in the Society by making payment at a highly belated stage, could have been accepted by the Joint Registrar.
40. The fact that the said appellants are the legal heirs of Shri Narendra Patel, who was admittedly in occupation of Flat No.7 for several decades, is not in dispute. It is also undisputed that in the year 1995, occupants of the flats, being the erstwhile tenants of M/s. Kamani Brothers, collectively resolved to form a co-operative housing society to stake a claim of ownership on the building. They filed an application

Shashin Patel and Anr. v. Uday Dalal and Ors.

to that effect before the learned Company Judge of the Bombay High Court, before whom the liquidation proceedings were pending.

41. The said application was accepted, and the Society was conveyed the right, title, and interest in the building in question in accordance with law. Shri Narendra Patel, however, did not make payment of the contribution derived towards his induction as a member of the society in respect of Flat No.7 and took shelter behind a plea that the necessary particulars and justification for the quantification of the amount were not provided. For the present, it is not necessary to delve into the merits of the said contention. The crucial fact which remains undisputed is that the peaceful possession and occupation of Shri Narendra Patel and, thereafter, his legal heirs, i.e., Shashin Patel and Bhavini Patel, the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025, over Flat No.7 has never been in question. The erstwhile members of the Society issued a letter dated 13th June, 1995 to Shri Narendra Patel offering him admission to the society membership subject to payment of Rs.5,00,000/-. The said offer letter is undisputed and does not appear to have ever been withdrawn. Further, at the Annual General Meeting (AGM) of the Society held on 11th August 2005, a resolution was passed resolving to admit Shri Narendra Patel, the original occupier of Flat No. 7 and predecessor-in-interest of the appellants in Civil Appeal @ SLP (Civil) No.36106 of 2025, as a member of the Society upon receipt of the requisite payment.
42. In such a situation, the determinative issue would be whether the appellants in Civil Appeal @ SLP(Civil) No. 36106 of 2025 could be denied the benefit of seeking membership of the Society while continuing to remain in occupation of the premises. It is not the case of the writ petitioners before the High Court (respondent Nos.1 to 3 herein) that the occupation of Shri Narendra Patel or that of his successors, namely, the appellants herein, in respect of Flat No.7 is illegal, nor is it their case that any proceedings were initiated by the Society before any competent forum prior to 2025 for evicting them from the premises. In this backdrop, denial of the appellants' request for grant of membership would create a serious anomaly inasmuch as the appellants would continue to occupy Flat No.7 without being conferred membership of the Society, creating a subsisting tussle and friction with the remaining occupants of the building/members of the Society.

Supreme Court Reports

43. It is apposite to mention here that the Society, in its AGM held on 30th September, 2025, resolved to re-affirm the proceedings and decisions of the AGM dated 11th August, 2005, and that the membership of the appellants in Civil Appeal @ SLP(Civil) No. 36106 of 2025, i.e., Shashin Patel and Bhavini Patel was accepted by the General Body as being legal and valid. It was further resolved that the appellants in Civil Appeal @ SLP(Civil) No. 36106 of 2025 had thereafter transferred Flat No. 7 to M/s. Capital Mind Advisory Services Private Limited (appellant in Civil Appeal @ SLP(Civil) No. 36057 of 2025) under a duly registered Deed of Transfer, pursuant to which M/s. Capital Mind Advisory Services Private Limited was admitted as a member of the Society. The General Body recorded that the said transfer and admission were in accordance with the Society's bye-laws and the provisions of the MCS Act, and accordingly accepted and approved the membership of M/s. Capital Mind Advisory Services Private Limited, in respect of Flat No. 7. We have not been informed about the minutes of the AGM dated 30th September, 2025, being challenged before any forum.
44. The High Court, while allowing the writ petition filed by respondent Nos. 1-3, reasoned that the Joint Registrar had acted in excess of his jurisdiction in directing the Authorised Officer of the society to grant membership to the appellants in Civil Appeal @ SLP (C) No.36106 of 2025. However, such a conclusion cannot be countenanced in view of the fact that the appellants in the said appeal had initially approached the Authorised Officer of the society by way of an application seeking membership, which came to be refused on the ground that he did not have the jurisdiction to take policy decisions. It was only thereafter that the appellants in the said civil appeal availed of the statutory remedies of appeal and revision provided under the MCS Act, 1960. Furthermore, in view of the decision taken by the General Body in the AGM dated 30th September, 2025, the membership of the appellants in the said civil appeal has already been ratified. Hence, the reasoning adopted by the High Court is unsustainable in law and cannot be upheld.
45. In this backdrop, the only equitable solution would be to recognise the entitlement of Shashin Patel and Bhavini Patel as members of the Society. Once such entitlement is recognised, the subsequent transfer of Flat No.7 in favour of M/s. Capital Mind Advisory Services Private Limited, by a registered Deed of Transfer and the consequential

Shashin Patel and Anr. v. Uday Dalal and Ors.

admission of the said transferee as a member of the Society, which has already been ratified by the General Body in its AGM held on 30th September, 2025, must necessarily stand recognised in law.

46. In the wake of the discussion made hereinabove, we hereby set aside the impugned judgment of the High Court to the extent of Para Nos. 58 (ii) to (vi).
47. We, however, provide that the aggrieved members of the Society, if so advised, would be at liberty to move an application before the appropriate authority/body for the determination of a suitable additional amount payable by the appellants by way of enhanced interest, as may be determined, having regard to the significant delay in making payment of the contribution for the acquisition of membership in the Society. If any challenge is laid to the decision taken in the AGM dated 30th September, 2025, as to the membership of the appellants, the same would be examined as per law without being prejudiced by the above observations.
48. It is further made clear that the parties will be at liberty to work out their remedies before the appropriate forum(s) in accordance with law.
49. The appeals are partly allowed in these terms. No order as to costs.
50. Pending applications, if any, shall also stand disposed of.

Result of the case: Appeals partly allowed.

†Headnotes prepared by: Divya Pandey