IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.   /2026
[@ SLP [C] NO.9580/2026]

THE FISHERIES AND FISH PRODUCTS MANUFACTURING CO-OPERATIVE SOCIETY LIMITED   Appellant(s)

VERSUS

THE DIRECTOR OF CO-OPERATIVE AUDIT & ORS.   Respondent(s)

O R D E R

Leave granted.

The present appeal has been filed by the appellant-cooperative Society assailing the impugned judgement passed by the High Court of Karnataka in Writ Appeal No. 1436/2025(CS-SUR), affirming the findings of the learned Single Judge in a writ petition preferred by the respondent No. 4/private respondent. Vide the writ petition, respondent No. 4 sought for a direction to respondent Nos. 1 and 2 for considering its representation for conducting re-audit of the appellant-society, for the Financial Year 2012-2013. The private respondent was elected as the president of the appellant-society during 2009-10 and 2012-13. An issue arose with respect to the funds utilised for construction of an ice-plant. Accordingly, an Audit Report was prepared by the Departmental Auditor on 22.05.2015, citing that the erstwhile president of the appellant society had not obtained permission/sanction from the Managing Committee for availing overdraft facility. The same resulted in financial loss by misappropriation of funds.

Based on the aforesaid Audit Report surcharge proceedings were initiated under Section 69 of the Karnataka Cooperative Societies Act, 1959 (for short, ‘1959 Act’). The surcharge proceedings concluded by holding that the appellant-society was entitled to recover a sum of Rs. 68,85,675/- from the private respondent, with an interest of 15% per annum. Against the order dated 18.10.2022, the respondent No. 4 filed an appeal under Section 105 of the 1959 Act before the Karnataka Appellate Tribunal, which remains pending for consideration.

Thereafter, the private respondent filed a representation seeking re-audit of accounts on 28.10.2022, which was not decided. This resulted in filling of the subject writ petition. The learned Single Judge allowed the same, against which the appellant-society preferred a writ appeal that came to be dismissed by the learned Division Bench. Aggrieved, the appellant is before this Court.

We have heard the learned Senior Counsel appearing for the appellant and the learned counsel appearing for the respondent(s).

We have also perused the impugned judgment dated

26.11.2025 passed by the High Court.

The question for consideration in the present appeal whether the High Court was right in issuing the Writ of *mandamus* when the statutory appeal under the 1959 Act, against the order of surcharge proceedings was pending consideration.

As rightly submitted by the learned Senior Counsel appearing for the appellant, the High Court has conducted a roving enquiry pertaining to the surcharge proceedings initiated in the year 2015. It is a settled principle that what cannot be done directly, cannot be done indirectly.

The issues raised on behalf of the private respondent can at best be raised in the pending statutory appeal before the Karnataka Appellate Tribunal.

The audit report has been given in the year 2015 by the Departmental Auditor for the Financial Years 2012-2013 and 2013-2014.

We are not in conformity with the impugned order passed by the learned Single Judge particularly, in reference to observations made in paragraph 10. Suffice it is to state, that the discretion available for invoking the powers Article 226 of the Constitution of India, 1950 ought not to have been exercised in the present case.

In such view of the matter, we are inclined to

set aside the impugned judgment passed by the High Court. Accordingly, the impugned judgement dated 26.11.2025 passed by the Division Bench of the High Court stands set aside.

However, the impugned judgment will not come in the way of the private respondent raising all contentions before the Karnataka Appellate Tribunal, including assailing the audit report dated 22.05.2015 in the pending appeal.

The appeal is allowed, accordingly.

Pending application(s), if any, shall stand disposed of.

……………………………………..J.
[M.M. SUNDRESH]

……………………………………..J.
[PRASANNA B. VARALE]

NEW DELHI;
SEPTEMBER 17, 2026.

ITEM NO.19 COURT NO.3 SECTION IV-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 9580/2026

[Arising out of impugned final judgment and order dated 26-11-2025 in WA No. 1436/2025 passed by the High Court of Karnataka at Bengaluru]

THE FISHERIES AND FISH PRODUCTS MANUFACTURING CO-OPERATIVE SOCIETY LIMITED Petitioner(s)

VERSUS

THE DIRECTOR OF CO-OPERATIVE AUDIT & ORS. Respondent(s)

FOR ADMISSION

Date : 17-09-2026 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Petitioner(s) Mr. S N Bhat, Sr. Adv.
Mr. D P Chaturvedi, Adv.
Mr. Tarun Kumar Thakur, Adv.
Mr. Abhay Choudhary M, Adv.
Ms. Anuradha Mutatkar, AOR

For Respondent(s) Mr. Raghavendra M. Kulkarni, Adv.
Mr. V. N. Raghupathy, AOR
Mr. Hemanth Kumar J, Adv.
Mr. Abhishek Mate, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(ASHA SUNDRIYAL) (POONAM VAID)
DEPUTY REGISTRAR ASSISTANT REGISTRAR

[Signed order is placed on the file]