

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 6799 OF 2026
WITH
REVIEW PETITION (ST) NO. 24845 OF 2026
IN
WRIT PETITION NO. 1289 OF 2000

Rohit Dhanesh Ruke And Ors.

...Applicants/Review
Petitioners

Versus

Durga Co-op. Hsg. Society Ltd. And Ors.

...Respondents

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Dr. Uday Warunjikar a/w Mr. Aditya Shirke, Mr. Sumit Kate i/b Mr. Parth Deshpande for the Applicants/ Review Petitioners.

Mr. Ashok Tajane a/w Mr. Yogesh Thorat, Yuvraj Tajane for Respondent No.1/original Petitioner.

Mr. Yuvraj Patil, AGP for Respondent/State.

CORAM : M.M. SATHAYE, J.
DATE : 9th SEPTEMBER, 2026

P.C. :

1. Heard learned Counsel for the parties.
2. Interim Application No. 6799 of 2026 is filed for seeking leave to file review. Review Petition is filed seeking review of order dated 24.04.2026 passed by this Court in Writ Petition No. 1289 of 2000 ('the Order under review' for short).
3. Learned counsel Mr. Warunjikar submitted that the Order under review has resulted in closure of the road in question by original Petitioner-Durga Co. Op. Housing Society Ltd. ('Durga CHS' for short)

by erection of two gates and physically stopping thoroughfare. It is submitted that Review Petitioners were not heard when the impugned order was passed and they are the affected parties, using the road in question passing through Durga CHS.

4. Certain sanctioned plans and layout are relied to contend that subject matter road is the access road for Review Petitioners' plots and structure/bungalow thereon. Review Petitioners are relying upon the NA orders of November 1985 onwards stated to be granted in favour of their predecessors and a sanctioned layout plan dated October and November 1985 of the Review Petitioners' plots making reference to 30 feet wide access from approved layout road between property of Durga CHS and some other Karla Co-operative Housing Society. Based on these documents, it is contended that Review Petitioners have right of access through Durga CHS.

5. On the other hand, learned Counsel for original Petitioner Durga CHS, Mr. Tajane, has tendered and relied upon affidavit in reply affirmed on 09.09.2026 to the above Interim Application, which is taken on record. He submits that in the Order under review, reference is already made to an earlier application made on behalf of Deccan Development Corporation in 1988 to the Tahsildar and at that time the Petitioner society had submitted necessary documents and proof before the Tahsildar and no order was passed. He submitted that persons at whose instance the road in question was granted under the order of Tahsildar dated 20.01.2000, are not making any grievance, but through Review Petitioners, an effort is being made to reopen the dispute on merits.

6. I have considered the rival submissions. Indeed a reference to

earlier application by Deccan Development Corporation is made in the Order under review. Perusal of NA orders produced on behalf of Review Petitioner makes reference to same Deccan Development Corporation, who are stated to be predecessors of Review Petitioners. It is therefore apparent that predecessor of Review Petitioners had tried to make an application in respect of road in question earlier in 1988 but, at that time, no order was passed. This is already considered by the Court.

7. Another NA permission is relied upon by learned Counsel for the Review Petitioners, which is apparently of 05.11.1990 referring to application by D.D. Desai Proprietor Desai Promoter, produced by Tahsildar alongwith his reply to the petition (page 80-83). In this order, there is a condition that roads and open place provided in the layout shall be maintained, otherwise they should be handed over to Village panchayat and shall be kept open for public and roads shown in the layout shall be open for adjacent holder. This order is about S. No. 125/2 Gat No. 298.

8. Learned Counsel for the Writ Petitioner have categorically stated on instructions that said NA order of 1980 is not about the Petitioner's property. Apparently, the subject matter of the petition was survey No. 128/21, 141 and 142/4B. NA order relied upon by the Writ Petitioner dated 27.03.1967 was also in respect of survey No. 128, 141 and 142/B. Therefore, on bare reading NA order dated 05.11.1990 in favour of DD Desai Proprietor Desai Promoter does not seem to be about Durga CHS. NA order relied upon by Durga CHS is much prior in point of time of March 1967, does not require the Petitioner-Society to keep any roads open for access to others.

9. Therefore, apparently when the subsequent NA orders (relied upon by the Review Petitioners) were passed in November 1985 onwards, the scope of conditions upon Durga CHS, availability of the road through the Society, whether it is disputed or not disputed, was not considered by a concerned Authorities and sanctions in favour of the Review Petitioners seem to have been granted. If that be so, the Writ Petitioner Durga CHS cannot be held responsible for the same.

10. In the aforesaid facts and circumstances, many disputed questions are raised by the Review Petitioners and therefore it is not possible to adjudicate them in the limited review jurisdiction.

11. Mr. Warunjikar, learned Counsel for the Review Petitioners have also relied upon the recent development permissions and commencement certificates issued by Pune Metropolitan Region Development Authority, Pune ('PMRDA' for short) in favour of Review Petitioners contending that this aspect could have been brought to the notice of the Court either by Petitioners or by local Village Panchayat. It is important to note that the Petitioner-society can not be presumed to have knowledge about such permissions granted by the Authority in favour of third persons like Review Petitioners. But certainly, concerned Village Panchayat could have pointed out these developments, but they have chosen not to do so, for reasons best known to its office bearers.

12. However, considering that indeed Review Petitioners were not heard when the order under Review was passed and the concerned Village Panchayat chose not to appear before this Court at the relevant time, it is necessary that the Petitioner's remedies under law must be kept open.

13. Therefore, if any proceedings are filed by the Review Petitioners against Writ Petitioner-Durga CHS or the concerned Authorities or concerned Tahsildar or Collector or PMRDA or their own predecessors, the same shall be decided in accordance with law and without being influenced by the observations made in the Order under review or the present order. All contentions on merits between the Review Petitioners and Writ Petitioner-Durga CHS, are kept open.

14. Interim Application as well as Review Petition are disposed of in above terms. No order as to costs.

15. All concerned to act on duly authenticated or digitally signed QR verifiable copy of this order.

(M.M. SATHAYE, J.)