



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13446 OF 2025

Mahendra Milapchand Kanungo and **...Petitioners**
Ors

V/s.

District Deputy Registrar of Co Op. **...Respondents**
Soc. and Ors

WITH

WRIT PETITION NO. 10023 OF 2026

Panvel Municipal Corporation Through **...Petitioner**
its Assistant Director

V/s.

District Deputy Registrar Co Op and **...Respondents**
Ors

Mr. Aadil Parsurampur with Mr. Atul Mishra, Ms. Gita Bhaskaran i/b Mr. Aditya Lele for Petitioners in WP. 13446/2026 and Respondent Nos. 3 to 6 in WP. 10023/2026.

Mr. Rohit Sakhadeo, for Petitioner in WP No. 10023 of 2026 and Respondent No. 3 in WP. 13446 of 2025.

Mr. Mahesh Vishwakarma i/b Ms. Megha Jain for Respondent No. 2 (society) in both the Petitions.

Mr. Aditya Udeshi with Mr. Rahul Sanghvi i/b Ms. Sanjay Udeshi and Co. for Respondent No. 4 in WP. 13446/2025 and Respondent No. 7 in WP. 10023/2026.

Mrs. Vaishali S. Nimbalkar, AGP for Respondent-State in WP. 13446/2025.

Mr. P. G. Sawant, AGP for Respondent-State in WP. 10023/2026.

Mr. Vinayak Vasant Salaskar-Chairman present.

CORAM: SANDEEP V. MARNE, J.

DATED: 28 AUGUST 2026.

P.C.:

1) The challenge in the present Petition is to the order dated 26 September 2025 passed by the Divisional Joint Registrar Co-operative Societies, Raigad-Alibuag and Competent Authority (**Competent Authority**) granting certificate of unilateral deemed conveyance of land admeasuring 10938.63 Sq. Mtrs in favour of Respondent No. 2-society. Petitions are filed by the land owners and by Panvel Municipal Corporation challenging the order of deemed conveyance to the limited extent of conveying the layout road to the Respondent No. 2-society.

2) I have heard Mr. Parsurampur, the learned counsel appearing for the Petitioners in WP. No. 13446/2025 and Respondent Nos. 3 to 6 in WP. No. 10023/2026., Mr. Sakhadeo, the learned counsel appearing for the Petitioner in WP No. 10023 of 2026 and Respondent No. 3 in WP. No. 13446 of 2025, Mr. Vishwakarma, the learned counsel appearing for Respondent No. 2 (society) in both the Petitions, Mr. Udeshi, the learned counsel appearing for Respondent No. 4 in WP. No. 13446/2025 and Respondent No. 7 in WP. No. 10023/2026, Mrs Nimbalkar, the learned AGP appearing for Respondent-State in WP. No. 10023/2026 and Mr. Sawant, the learned AGP appearing for Respondent-State in WP. No. 10023/2026.

3) It appears that the total land owned by the land owners admeasured 17,330 Sq. Mtrs. The land owners granted development rights in favour of the developer only in respect of land admeasuring 10938.63 Sq. Mtrs. The developer accordingly took up land admeasuring

10938.63 Sq. Mtrs for development in respect of which, the first development permission dated 7 July 2014 was issued by the then planning authority i.e. Collector. In the development permission, following condition was incorporated:-

२५ भविष्यात या सोबतच्या मंजूर रेखांकनामध्ये दुरुस्ती करून, सुधारित रेखांकनास मजुरी घ्यावयाची झाल्यास, सोबतच्या रेखांकनात दर्शविलेले रस्ते जर लगतच्या भूखंडांना जोडले असतील तर ते सुधारित रेखांकनात त्याचप्रमाणे अबाधित ठेवण्यात यावेत.

4) The land owners decided to develop the land retained by them and a revised development permission for construction of Building Nos. 8 and 9 was issued on 6 May 2022. In the revised permission so issued, a specific condition was imposed at Sr. No. 48 which reads thus:-

48. The Owner / Developer Should Transfer area under Proposed / Layout / Internal Roads to the name of Panvel Municipal Corporation within one month from issue of this certificate.

5) Thus, both the conditions in the original development plan as well as revised plan required maintenance and transfer of layout road to the Municipal Corporation. *Prima facie*, both the conditions appear to be in tune with the provisions of Unified Development Control and Promotion Regulations. Under regulation 3.3.4, while granting development permission for land subdivision, it is necessary to coordinate the roads in the adjoining lands. Regulation 3.3.4 provides thus:-

3.3.4 Co-ordination of Roads in adjoining lands

While granting the development permission for land sub-division or group housing/ campus planning, it shall be necessary to co-ordinate the roads in the adjoining lands subject to provisions mentioned in Regulation No.3.3.2.C –

Note. Also, proper hierarchy of roads shall be maintained while deciding width of road.

- 6) Under Regulation 3.3.11, it is mandatory to handover the layout roads to the planning authority without payment of composition. Regulation 3.3.11 provides thus:-

3.3.11 Handing Over of Layout Roads

Whenever called upon by the Authority to do so, areas under internal layout roads shall be handed over to the Planning Authority by way of deed after development of the same, within such period as may be specified in commencement letter / development permission, for which no compensation shall be paid by the Planning Authority.

- 7) It is the case of the land owners, the developer and Panvel Municipal Corporation that the layout road sanctioned vide permission dated 7 July 2014 aligns with the roads in the neighbouring layout plots and that therefore the same must be handed over to Panvel Municipal Corporation. It appears that the layout road has been handed over vide register Deed of transfer dated 18 December 2025 to the Municipal Corporation.

- 8) The land owners, developers as well as Panvel Municipal Corporation have no qualms about conveyance of the layout land in favour of the Respondent No. 2-society. Their only reservation is about conveyance of land covered by the internal roads admeasuring 2173.70 Sq. Mtrs, which is incorporated in the impugned certificate of deemed conveyance.

9) It appears that the Respondent No. 2-society has already instituted Special Civil Suit No. 419 of 2024 (later renumbered as RCS No. 45/2025) before the Court of Civil Judge Senior Division, in which it has sought following prayers:-

- a) That this Hon'ble Court be pleased to hold and declare by a Judgement and Order that the Indemnity Bond dated 29.05.2024 executed by Defendant No. 3 to 7 having registered document no. PVL3-10377-2024 filed below Exhibit- "C" is null and void ab-initio, and not binding on the Plaintiff society;
- b) This Hon'ble Court further be pleased to direct the Defendants to execute necessary deed of cancellation and thereby cancel the said Indemnity Bond dated 29.05.2024 having registered document no. PVL3-10377-2024 filed below Exhibit- "C".
- c) That this Hon'ble Court be pleased to hold and declare by a Judgement and Order that the suit property, being the internal road of the Plaintiff Society is for the exclusive use of the Plaintiff Society and its members, and that no other party, including the Defendants, has any right, title, or interest over the said internal road.
- d) That this Hon'ble Court be pleased to pass a Judgement and Order of permanent injunction restraining Defendant No. 1 & 2 from demolishing, removing, or in any manner interfering with any structures, including gates, fences, or security installations, erected or installed by the Plaintiff society for security purposes on the suit property, the internal road in question.
- e) That this Hon'ble Court be pleased to hold and declare by a Judgement and Order that the notices dated 21.05.2024 and 26.07.2024 a/w 20.08.2024 and 03.09.2024 filed below Exhibit-"R-Colly" herein are illegal, arbitrary and without any legal foundation; and thereafter this Hon'ble Court be pleased to set aside the same.
- f) That this Hon'ble Court be pleased grant ad-interim and interim reliefs in terms of prayer clause (c), and (d), pending the final disposal of the suit;
- g) That this Hon'ble Court be pleased to draw a decree in terms of the reliefs as prayed herein above and thereafter this Hon'ble Court be pleased to direct the Sub-Registrar Panvel -3 to register the Decree so drawn by this Hon'ble Court.
- h) Award costs of the suit to the Plaintiff.

10) The Application filed by Respondent No. 2-society for seeking temporary injunction in Regular Civil Suit No. 45 of 2025 has been rejected by the Trial Court by order dated 9 April 2025. It appears that Respondent No. 2-society has filed an Appeal against order dated 9 April 2025 which is pending.

11) Thus whether Panvel Municipal Corporation is entitled to ownership in respect of the layout road is an issue directly subjudice in the pending Suit. As of now, the land owners and developers have handed over the layout road to the Municipal Corporation in accordance with the above quoted conditions in the development permission and in accordance with the above quoted provisions of the UDCPR. Whether that transfer deed is valid or not can be decided by the Civil Court.

12) The Competent Authority is a tribunal of limited jurisdiction. While conducting a summary inquiry under provisions of Sections 11 (3) and (4) of the The Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963, Competent Authority cannot decide complicated questions of entitlement of Panvel Municipal Corporation to own the land covered by the layout road. It cannot decide whether the indemnity bond executed for transfer of road to the Panvel Municipal Corporation or the Deed of Transfer are valid or otherwise. Only Civil Court case decide those issues. Therefore, it is not necessary to consider the ratio of the judgments of the Apex Court in **Hari Krishna Mandir Trust V/s State of Maharashtra and Ors.**¹ and **PT. Chet Ram Vashist (Dead) By**

1 (2020) 9 SCC 356

LRs. V/s Municipal Corporation of Delhi² relied upon by Respondent No. 2-society which deal with the aspect of reservation not amounting to vesting of land in favour of the planning authority. That issue can be considered by the Civil Court.

13) In my view, therefore the land covered by the layout road is required to be excluded from the certificate issued by the Competent Authority at this juncture. If and when Respondent No. 2-society succeeds in the suit and secures a declaration that it alone is entitled to exclusively use the land covered by layout road, conveyance of that land can always to be granted in favour of the Respondent No. 2-society. The Respondent No. 2-society can accordingly incorporate challenge to the deed of transfer dated 18 December 2025 as well as seek a prayer for conveyance of land admeasuring 2173.70 Sq. Mtrs in the pending suit. It is well settled principle that mere issuance of certificate of deemed conveyance land does not amount to final determination of rights and entitlements of parties qua the conveyed land (SEE: **Arunkumar H. Shah HUF V/s. Avon Arcade Premises Co-operative Society Ltd and Ors.**³) The Respondent No. 2-society can always seek conveyance of layout road from the Civil Court if it can establish that handing over/transfer of the road to Panvel Municipal Corporation is illegal. As of now the land covered by the layout road needs to be deleted from conveyance of Respondent No. 2-society leaving open liberty for it to seek conveyance thereof from the Civil Court.

2 1995 1 SCC 47

3 (2025) 7 SCC 249

14) In view, of the above discussion, I proceed to pass the following order:-

(i) Order dated 26 September 2025 passed by the Competent Authority is set aside.

(ii) The Application is remanded to the Competent Authority for issuance of fresh certificate of deemed conveyance by excluding land admeasuring 2173.70 Sq. Mtrs. covered by layout road from the certificate of deemed conveyance.

(iii) The Competent Authority shall issue fresh certificate of deemed conveyance concerning only the balance portion of land.

(iv) It is clarified that entitlement of the Respondent No. 2-society to seek ownership in respect of land admeasuring 2173.70 Sq. Mtrs shall be subject to final outcome of the pending suit.

(v) All rights and Contentions qua the layout road are kept open to be decided in the Suit. The Suit shall be decided uninfluenced by observations made in the order.

(vi) The Competent Authority shall proceed to issue fresh certificate of deemed conveyance as expeditiously as possible preferably within a period of four months.

(vii) Parties shall appear before Competent Authority on 7 September 2026 and it shall not be necessary to issue fresh notices in the remanded proceedings.

15) With the above directions, both the Petitions are partly allowed and **disposed of**. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]