

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15460 OF 2022**

Smt. Jyoti Dnyanoba Dhayarkar

...Petitioner

V/s.

Makrand Potbhare and Ors.

....Respondents

Mr. Dnyanoba Dhayarkar, for the Petitioner.

Ms. Pushpa Thapa, for Respondent No.1.

Mr. Ashok B. Tajane, for Respondent Nos. 3A and 4B.

Mr. C.D. Mali, AGP for State.

CORAM : SANDEEP V. MARNE, J.

Dated : 30 November 2023.

P.C. :

1. Petitioner is aggrieved by the action of the Society in admitting Respondent No.3 as Member (after the death of Petitioner's father, late Somnath Pandharinath Raut). Transfer of such membership is apparently done by the Society by relying upon nomination effected by the father, as well as 'Vyasthapatra' dated 10 February 2012 under which all the immovable properties including the concerned Plot were desired to be granted by late Somnath Pandarinath Raut exclusively to Respondent No.3. It is well settled position of law that mere

admission of a Nominee as Member by the Society upon death of the original Member does not confer any right, title or interest in the property on such Nominee. Ultimately, the rights and entitlement of legal heirs to the property in question would be subject to the decision of Civil Court. A Nominee admitted as Member merely holds the property as a Trustee. This position has been reiterated in several judgments including the judgment of this Court in *Gopal Vishnu Ghatnekar Versus. Madhukar Vishnu Ghatnekar* 1981 Bom C.R. 1010.

2. It appears that the Petitioner has already instituted Regular Civil Suit before the Civil Judge Junior Division, Pune *inter-alia* challenging the Vyasthapatra dated 10 February 2012 and supplementary Vyasthapatra dated 20 February 2017. The rights and entitlement of the parties to the plot in question would ultimately be decided by the Civil Court and mere grant of membership by the Society in favour of Respondent No.3 would not be conclusive in that regard. I therefore do not find any error in the impugned orders passed by the Deputy Registrar or the Divisional Joint Registrar. With the above observations, the Writ Petition is **disposed of**.

3. All contentions of the parties on merits are kept open.

4. With disposal of the Writ Petition, any pending Interim Applications if any also stand disposed of.