

SA Pathan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.365 OF 2024

Reena Vrajlal Shah

... Petitioner

V/s.

Upendra Vrajlal Shah & Ors

... Respondents

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BORKAR
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Mr. Shailendra Pendre a/w Mr. C. S. Lamba, for
Petitioner.

Mr. Sanjay D. Rayrikar, AGP, for State/Respondent
Nos.2, 3 & 5.

Mrs. Revati Desai i/by Mr. Gaurav Pande, for
Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 30, 2024

PC.:

1. The writ petition challenges order passed by the Authorities under the Maharashtra Cooperative Societies Act, 1960 directing names of petitioner and respondent No.1 to be enrolled as member of respondent No.4/housing society.

2. It is not in dispute that the *father* of the petitioner and *petitioner* was member of the respondent No.4/housing society. After her death, respondent No.1 applied for membership of housing society. The society did not communicate its decision and,

therefore, the respondent No.1 filed an appeal under Section 22 (2) of the Maharashtra Cooperative Societies Act, 1960. The Appellate Authority recorded a finding that the petitioner and respondent No.1 are the legal representatives of the deceased member and, therefore, names of both should be entered in membership register.

3. The petitioner challenged the said order before the revisional authority mainly on the ground that the respondent No.1 had relinquished his share in favour of petitioner and, therefore, his right in the said property stands extinguished.

4. The Authorities under the Maharashtra Cooperative Societies Act, 1960 recorded a finding that the issue of title of immovable property cannot be decided by the Authorities under the Maharashtra Cooperative Societies Act, 1960 and appropriate remedy for the person seeking relief in relation to relinquishment of title is to approach Civil Court to seek a declaration as regards title over the immovable property.

5. The Authorities have further recorded a finding that the relinquishment deed executed by respondent No.1 is not registered as per provisions of Section 17B of the Registration Act, 1908.

6. Considering the scope of powers of Registrar under Section 22 (2) of the Maharashtra Cooperative Societies Act, 1960 the Registrar is not entitled to enter into disputes of title and, therefore, the remedy for aggrieved person is to get his rights adjudicated before the competent Civil Court. It would, therefore, be open for the petitioner to approach the Civil Court for

adjudication of her rights including declaration as regards alleged relinquishment deed executed by respondent No.1, keeping the said remedy of petitioner to file a civil suit open, the writ petition stands dismissed. No costs.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 9 February 2024. Corrections in paragraph 2 are shown in italicize.