

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10040 OF 2024**

Max Edward Cardoz Through Santosh Koli ...Petitioner

Versus

State of Maharashtra Through Divisional Joint Registrar And
Ors. ...Respondents

Mr. Ruben A. Fernandes, for the Petitioner.

Ms. Snehal S. Jadhav, A.G.P. for Respondent Nos. 1 & 2 – State.

Mrs. S.P. Srivastav, for Respondent Nos. 3 & 5.

**CORAM : AVINASH G. GHAROTE, J.
DATE : 26th JULY 2024**

P.C.:

1. Heard Mr. Ruben A. Fernandes, the learned counsel for the petitioner. The petition questions the order dated 10.06.2024, passed by the Revisional Authority under the Maharashtra Co-operative Societies Act, which upholds transfer of share certificate in respect of Flat No.27, which was originally owned by the mother of the petitioner and respondent No.5, in favour of respondent No.5 on the ground, that a nomination was effected by the mother in her favour. It is contended that the position of a nominee, is that of a trustee, who holds the property in trust for the other legal heirs, in absence of a Will. Admittedly in the

instance case, there is no Will, considering which it is contended that the property would equally devolve upon all legal heirs, contrary to which the share certificate has been transferred in the name of the respondent No.5 along with the father, who is no more. Admittedly the petitioner is the son, and therefore, would be one of the legal heirs of the deceased mother / original member.

3. It is further contended that by suppressing the fact that the original allottee, Mrs. Luiza Edward Cardoz was having one son and one daughter, the fact of the petitioner being the son, has been suppressed by the respondent No.5 by swearing a declaration on 27.03.2024 (page 60) claiming that she was the only legal heir, and therefore, has entered into an agreement on 26.03.2014 with the respondent No.3, which is in challenge in Suit No.2019 of 2023.

2. Issue notice for final disposal, returnable on 01.08.2024. Mrs. S.P. Srivastav waives notice for respondent Nos.3 and 5. The learned AGP appears for respondent Nos.1 and 2.

(AVINASH G. GHAROTE, J.)