

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3040 OF 2025

Smruti Shashikant Pednekar w/o.

Late Shashikant Pednekar,

Age : 56 Years, Occu.: Housewife,

R/at : 327, Gaondhad Wadi,

Opposite Hotel Maher, Arawali,

VTC Arawali, Vengurla,

Sindhudurg – 416 518.

.....Petitioner

Vs.

1. The State of Maharashtra,
Through the Competent Authority,
And District Deputy Registrar,
Cooperative Societies,
District Sindhudurg.

2. Silver Acres Cooperative
Housing Society Ltd.,
Through its Chairman/
Secretary, Having Office
at – Mu.Po.-Nirwade,
Taluka : Sawantwadi,
District : Sindhudurg

.....Respondents

Dr. Uday Warunjikar with Ms. Neha G. Deshpande, Mr. Utkarsh Pandukale, i/b. Mr. Aditya Kharkar, for the Petitioner.

Mrs. S. N. Deshmukh, AGP, for Respondent No.1-State.

Mr. Atharva Dandekar (Through VC), i/b. Mr. Narendra Musale, for the Respondent No.2.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 7th NOVEMBER 2025

JUDGMENT :-

1. The Petitioner impugns order dated 14th January 2025 passed by Competent Authority/District Deputy Registrar, Cooperative Societies Sindhudurg, thereby allowing Deemed Conveyance Application No.6 of 2022 filed by Respondent No.2.

2. The Petitioner's husband was in construction business. The Respondent No.2-Society is formed by purchasers of apartments from the Petitioner. The Respondent No.2 filed Deemed Conveyance Application No.6 of 2022 before Respondent No.1 under Section 11 of Maharashtra Ownership of Flats Act, 1963 (For Short, 'MOFA') against husband of Petitioner. He caused appearance and contested application by filing detailed reply. The matter was posted for further hearing on 17th December 2024 before Respondent No.1. Unfortunately, on 30th November 2024, husband of Petitioner expired. Pertinently, the *roznama* dated 24th December 2024 records that notice of hearing issued to Petitioner's husband has returned back with such endorsement.

3. On 9th January 2025, the Respondent No.1 recorded that notice of hearing given to husband of Petitioner is returned with

endorsement 'Deceased Return to Sender'. However, roznama further records that 'None present for Respondent and close matter for Judgment'. Finally, impugned order has been passed on 14th January 2025.

4. The aforesaid sequence of events would show that impugned order has been passed against the deceased husband of Petitioner, without taking steps for bringing legal heirs on record. The deceased husband of Petitioner has raised various contentious issues in his reply. The Petitioner being legal heir of deceased builder entitle to defend action initiated by Respondent-Society.

5. In this backdrop, without entering into merits of the matter, it would be appropriate to quash and set aside the impugned order and relegate matter back to Respondent No.1, with opportunity in favour of Petitioner to cause her appearance, being legal heir of deceased Respondent and participate in proceeding from the stage, as on date of death of her deceased husband.

6. In result, the Writ Petition is partly allowed.

7. The impugned order is quashed and set aside. The matter is

relegated back to Respondent No.1-Competent Authority to take up the proceedings for further consideration from the stage as on date of death of husband of Petitioner.

8. The Petitioner shall be at liberty to cause her appearance before Respondent No.1-Authority seeking her impleadment being legal heir of Respondent therein.

9. The Respondent No.1-Authority shall allow such application and permit the Petitioner to participate in the proceedings and pass further orders in accordance with law.

10. Parties to appear before Respondent No.1 on 2nd December 2025, who shall decide proceeding within period of eight weeks from date of appearance of parties.

(S. G. CHAPALGAONKAR, J.)

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