

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1483 OF 2024

Madhuriben Meghajibhai Shah

....*Petitioner*

: *Versus* :

1. Guruprasad Shopping Center Premises
Co-operative Housing Society Ltd. through
Hon. Secretary. & Ors.

....*Respondents*

Mr. Suhas S. Deokar, *for the Petitioner.*

Mr. Amit D. Nikam, *for Respondent No.1.*

Mr. Uday G. Jaguste, *for Respondent Nos.2 to 3.*

Mr. R.S. Pawar, *AGP for State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 17 April 2025.

P.C. :

1) The petition challenges the order dated 25 October 2023 passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai rejecting Revision Application No.30/2014 and upholding the order dated 29 November 2013 passed by the Deputy Registrar. The Deputy Registrar has rejected Petitioner's application filed under the provisions of Section 23(2) of the Maharashtra Co-operative Societies Act, 1960 (*Act of 1960*) seeking grant of membership in her name qua the flat in question.

2) I have heard Mr. Deokar, learned counsel appearing for the Petitioner, Mr. Jaguste, for Respondent Nos.2 and 3, Mr. Nikam the learned counsel appearing for Respondent No.1-Society and Mr. Pawar, learned AGP for State.

3) After having considered the submissions canvassed by the learned counsel appearing for the parties, it is seen that the flat in question was originally owned by Shri. Meghji Jethabhai Shah, who has passed away on 13 April 1997. Petitioner is the wife of late Meghji. Petitioner relies on order passed by this Court on 10 February 2011, under which this Court has granted Letters of Administration in respect of estate and properties of late Meghji in favour of the Petitioner. It appears that late Meghji had two wives. This Court has held that the marriage between late Meghji and Manjula Shah to be void. However, this Court held the three daughters born out of the void wedlock between the duo to be legitimate under the provisions of Section 16 of the Hindu Marriage Act. Accordingly, while granting the Letters of Administration, this Court directed the Petitioner to share the estate of the deceased equally amongst the seven legal heirs, which included the three daughters born out of the void wedlock.

4) It appears that late Meghji had made a nomination in favour of Respondent Nos.2 to 4 who are the daughters born out of the void marriage. Acting on the nomination form, the Society effected transfer of shares in the name of Respondent Nos.2 to 4 as back as on 8 March 1997. It is only in the year 2012 that the Petitioner filed application before the Deputy Registrar seeking a prayer to transfer of right, title and interest in respect of the flat in question in her sole name under the provisions of Section 23(2) of the Act of 1960.

5) In my view, even as per the Letters of Administration, Petitioner is not the sole owner in respect of the flat in question. It appears that the deceased Meghji had several properties and as per the Letters of Administration, the Petitioner is under obligation to divide and distribute all properties of the deceased equally amongst the seven legal heirs. The Deputy Registrar is not empowered to ensure equitable distribution of the estate of the deceased. Petitioner cannot selectively seek to enforce the Letters of Administration only qua the flat in question without undertaking the exercise of equitable distribution of the entire estate of the deceased. As of now, Respondent Nos.2 to 4 merely hold the flat as nominees, which does not destroy the right, title and interest of the other four legal heirs of deceased Meghji. It would be open to the Petitioner and other three legal heirs to file a suit for partition of the flat in question. In my view, therefore the Deputy Registrar has rightly rejected the application filed by the Petitioner for transfer of entire membership of the flat in the sole name of the Petitioner. Contrary to the prayer made in the application filed before the Deputy Registrar, Mr. Deokar has suggested that let the membership be transferred in the name of the Petitioner as an administrator on behalf of all seven heirs. In my view, it is impermissible to undertake inquiry into shares of different legal heirs in proceedings before the Deputy Registrar. No error is committed by the Divisional Joint Registrar in dismissing the Revision Application. I find the petition to be devoid of merits. It is accordingly **rejected**.

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[SANDEEP V. MARNE, J.]