

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

WRIT PETITION NO.9541 OF 2024

Sandeep R. Kangutkar son of
late Ramakant V. Kangutkar
and Ors.

...Petitioners

V/s.

State of Maharashtra and Ors.

...Respondents

Mr. S. Parthasarathy with *Ms. Pooja Singh i /b. Mr. Naresh Pai*
for the Petitioners.

Mr. P.G. Sawant, AGP for Respondent-State.

Mr. Shanay Shah with *Mr. Pankaj Pandey* for Respondent No.5.

Mr. Shrey Fatterpekar with *Mr. Smit K. Nagda* for Respondent
No.6.

CORAM: SANDEEP V. MARNE, J.

Dated: 19 March 2025.

P.C.:

1) Petition challenges order dated 3 October 2022 passed by the Divisional Joint Registrar, Co-op. Societies, Mumbai Division, Mumbai, allowing Revision Application No.284 of 2022 and setting aside order dated 4 May 2022 passed by the Deputy Registrar, Co-op. Society, K/E-ward, Mumbai. The Deputy Registrar had rejected the application preferred by Respondent No.6 for grant of membership of the Respondent No.4-Society.

By setting aside the order passed by the Deputy Registrar, the Divisional Joint Registrar has directed grant of membership of the society in respect of Flat No. 504 in favour of Respondent No.6.

2) There appears to be title dispute between the Petitioners and Respondent No.6 in respect of Flat No.504. Respondent No.6 claims to have purchased the said flat on the strength of registered Agreement for Sale executed by the developer. On the other hand, it is the contention of the Petitioners that under the development Agreement, Flat No.504 ought to have been allotted to them by the Developer. It is contended by the Petitioners that the obligation on the part of the developer to allot Flat No.504 continues to subsist and in breach of said obligation, the developer illegally transferred the said flat in favour of Respondent No.6. It is the contention of developer that the obligation to allot flat No.504 no longer continued to subsist on account of termination letter dated 11 March 2014.

3) It appears that Petitioners have already filed a Civil Suit challenging the purchase transaction executed in favour of Respondent No.6. By now, it is well settled position of law that grant of membership in respect of a flat in a co-operative society does not amount to recognition of title of the member. Admission of Respondent No. 6 as member of the society is obviously subject to final outcome of Civil Suit instituted by the Petitioner. In that view of the matter, I am not inclined to interfere in the impugned

order passed by the Divisional Joint Registrar. As of now, Respondent No.6 is armed with a registered Agreement for Sale *qua* flat No.504 and he is also in possession of flat No.504. Petitioners will have to secure a declaration that the said purchase transaction is illegal from the civil court. As and when such a declaration is issued by the civil court, name of Respondent No.6 as a member of the society can be deleted and the names of the Petitioners can be substituted in the membership register.

4) Leaving open all the contentions raised by the Petitioners about merits relating to title claim, the Petition is disposed of.

[SANDEEP V. MARNE, J.]