

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

WRIT PETITION NO. 548 OF 2025

M/s. V.P. Patel and Brothers, Pune

...Petitioner

V/s.

Laxmi Complex Commercial
Premises Coop. Society Ltd. and
Ors.

...Respondents

Mr. Anil Anturkar, *Senior Advocate i/b. Mr. Yatin Malvankar*
for the Petitioner.

Ms. Dhruti Kapadia, *AGP for Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 27 January 2025.

P.C. :

1) Petition challenges order dated 22 June 2020 passed by the Competent Authority and District Deputy Registrar, Co-operative Societies, Pune city, Pune, issuing certificate of Unilateral Deemed Conveyance in respect of land admeasuring 1874 sq.mtrs. and constructed portion admeasuring 2623.403 sq.mtrs. in favour of Respondent No.1-Society.

2) Petitioner also challenges registration of Deed of Conveyance bearing No. 21915/1/81 of HVL-17 effected by Joint Sub Registrar, Haveli No.17 on the ground that the same is in

the teeth of provisions of Section 23 of the Registration Act, 1908. Petitioner also alleges non-service of mandatory notice under Section 11(5) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (**MOFA**) before effecting registration.

3) Heard Mr. Anturkar, the learned senior advocate appearing for the Petitioner and Ms. Kapadia, the learned AGP appearing for the Respondent -State and considered the submissions canvassed by them.

4) This appears to be a case of construction of a single building on plot of land admeasuring 3031 sq.mtrs. It is not the case of the Petitioner that they undertook a layout development or that any further development is contemplated on land admeasuring 3031 sq.mtrs. The Society relied upon Certificate of architect dated 29 August 2023, which reflects that out of the land admeasuring 3031 sq. mtrs., land admeasuring 1157 sq.mts. is deducted for road widening and the balance land available is only 1874 sq.mtrs. It is not Petitioner's case that any further development was or is contemplated on any portion of the land admeasuring 1874 sq.mts. Since construction of the building on balance land admeasuring 1874 sq.mts. is complete and occupancy certificate is already issued, I do not see any reason why the Petitioner -promoter can escape the obligation under provisions of Section 11 of the MOFA Act to transfer his

right, title and interest in the land and the building in favour of the Society.

5) In my view therefore, the Competent Authority has rightly conveyed land admeasuring 1874 sq.mts and constructed area admeasuring 2623.403 sq.mts. in favour of Respondent No.1-Society. Since there is no palpable error in the order passed by the Competent Authority, I am not inclined to entertain the objections relating to period of registration specified under Section 23 of the Registration Act as well as alleged failure to issue notice to Petitioner under Section 11(5) of the MOFA in the facts and circumstances of the present case. The issues in this regard are kept open to be decided in appropriate case. Considering the facts and circumstances of the present case where the entire development on the land admeasuring 3130 sq.mts. is already complete so also the fact that the Competent Authority has deducted area of land admeasuring 1157 sq.mts. towards road widening and conveyed only balance portion admeasuring 1874 sq.mts. in favour of Respondent No.1-Society, I am not inclined to exercise jurisdiction under Article 227 of the Constitution of India.

6) Writ Petition is accordingly rejected.

[SANDEEP V. MARNE, J.]