

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5217 OF 2024

Shivmati Builders and Ors

...Petitioners

Versus

Chairman/Secretary

Shivmati Cooperative Housing Society

Ltd and Ors.

...Respondents

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Mr. Prithviraj S. Gole *a/w. Siddhesh Pednekar, for Petitioners.*

Mr. Umair A. Ansari, *for Respondent No.1.*

Mr. Nimesh Bhatt, *for Respondent No. 6.*

Adv. S.L. Babar, AGP, *for Respondent-State.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : November 12, 2025

ORDER :

1. The order impugned in this Petition is dated January 31, 2024 ("***Impugned Order***"), whereby a land underlying the building on which the Respondent No. 1-Society's building stands is meant to be conveyed to the Society. A certificate appended to the Impugned Order refers to the land, for which the unilateral deemed conveyance is directed, being land admeasuring 610 sq. mtrs bearing Survey No. 291 as more completely described at page 102 of the Petition.

2. Learned Advocate for the Petitioner submits that this is not a case where the Developer had not executed a conveyance in favour of the Society. The conveyance deed had been executed on June 28, 2013 and that conveyance refers to City Survey Nos. 903 to 908 which describe the land on which the building of the Respondent Society stands. However, it is seen that the property card relating to the land described in the conveyance deed depicts such land as agricultural land. This is what led to the unilateral deemed conveyance proceedings when engagement between the parties did not lead to an expeditious resolution, the Society being desirous of getting a deemed conveyance.

3. Learned Advocate for the Petitioner submits that the Petitioner has no quarrel with ensuring that specifically the land underlying the building of the Respondent Society should stand in the name of the Society, and towards this end, he would be willing to execute a deed of rectification in the original conveyance deed to perfect the title of the Society to the land underlying the building. Towards this end, the parties have consensus to request this Court to direct that a survey be conducted by a Surveyor on the panel of the High Court and to specifically establish the identity of the land on which the building of the Respondent Society stands. This is a fair suggestion and would resolve

the disputes and differences between the parties.

4. Therefore, in exercise of the extraordinary jurisdiction of the Writ Court, the parties' consensus on appointing M/s. Perfect Valuation and Consultants, [Address : 6, Parvati Villa, Natwar Nagar Road No. 3, Jogeshwari (East), Mumbai 400 060] as the mutually agreed surveyor, is acceptable. The said surveyor shall conduct a survey and issue a certificate as to the specific identity of the land on which the building of the Respondent Society stands. The Surveyor is requested to complete such exercise within a period of two weeks from being approached.

5. The parties commit to approach the Surveyor within a week of the upload of this order on the website of this Court. Once the report of the Surveyor is ready, the Petitioner shall proceed to execute a deed of rectification to the conveyance deed, dated June 28, 2013 so that the disputes between the parties would stand redressed. While this very exercise could have been done even before the competent authority, without having to come to this Court to have the aforesaid arrangement put in place, considering the consensus between the parties and the fact that the matter would get resolved with the aforesaid approach, this

direction is being issued.

6. ***Finally disposed of*** in the aforesaid terms. Liberty to apply.

7. Considering that this could have been resolved earlier, in the first instance, the costs and expenses of the survey shall be borne by the Petitioner, since it is the Petitioner's grievance that the land which is not really belonging to the Society stands conveyed by the Impugned Order.

8. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]