

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

CIVIL WRIT PETITION NO. 8007 OF 2024

The Matunga Shalimar Industrial Premises Co-operative Society Ltd. ..Petitioner
Versus
The Deputy Registrar Co-operative Housing Society & Ors. ..Respondents

Mr. Vikramjit Garewal a/w. Kanhaiya Jha i/b. Shlok Parekh for Petitioner.
Mr. R S. Pawar, AGP for State/ Respondent Nos.1 and 2.
Mr. N. N. Bhadrashete for Respondent No.3.

CORAM : AMIT BORKAR, J.
DATE : 26 NOVEMBER 2025

PC :

1. Rule. Rule is made returnable forthwith with consent of the parties.
2. The petition arises from proceedings under Section 23(2) of the Maharashtra Cooperative Societies Act. Respondent No. 3 sought membership of the petitioner society. The society rejected the application. The reason assigned was clear. Respondent No. 3 had no title to the property. Title is the foundation for claiming membership in a housing society. When the basic requirement is absent, the society acted within its authority.

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3. Respondent No. 3 preferred an appeal. The appellate authority dismissed it. Respondent No. 3 then invoked the revisional jurisdiction. The revisional authority set aside the concurrent findings and allowed the revision. The petitioner has therefore approached this Court. The record shows that the revisional authority travelled beyond its jurisdiction.

4. The pleadings and documents placed before this Court show that Respondent No. 3 had earlier instituted S.C. Suit No. 2392 of 2013 before the Civil Court. The issue framed by the Civil Court was specific. It was whether Respondent No. 3 was the lawful transferee of the flat in question. The Civil Court examined the evidence. In paragraph 18 of its judgment, the Civil Court recorded a clear finding. Respondent No. 3 failed to prove the execution of the agreement relied upon. Even if the document was treated as a document of title, the evidence fell short. The Civil Court held that Respondent No. 3 was not the lawful transferee of the suit premises. This finding stands.

5. Learned counsel for Respondent No. 3 argued that the Civil Court lacked jurisdiction to decide issues 3 and 4. He submitted that the Civil Court itself noted this position. He argued that any finding rendered without jurisdiction does not bind the society. He relied upon the observation in the judgment to support his contention.

6. I find no merit in this submission. A litigant cannot

choose which part of a judgment to honour and which part to ignore. A competent Civil Court has adjudicated the issue of title. The parties participated in those proceedings. The finding remains operative until set aside in appeal. So long as the judgment stands, it binds the parties. The society was justified in acting on the basis of this binding adjudication. Respondent No. 3 cannot bypass the findings by taking shelter under selective readings of the judgment.

7. The observation in paragraph 22 of the Civil Court judgment was only an alternative observation. The Civil Court first held that Respondent No. 3 failed to prove his title. Only thereafter, for completeness, it recorded that even otherwise its jurisdiction would be barred under Section 91 of the Act. The principal finding on title stands independent of this alternative observation.

8. The Civil Court then clarified that even if the respondent's case was accepted, the Civil Court would still lack jurisdiction in view of Section 91 of the Act. This clarification does not dilute the earlier finding on title. It only states the legal position that certain disputes between a society and its member are excluded from its jurisdiction.

9. The bar under Section 91 extends only to disputes that fall within its ambit. It does not oust the Civil Court's jurisdiction to decide questions of title. Questions of title lie exclusively within

the domain of the Civil Court. The Civil Court has already decided this issue.

10. Respondent No. 3's remedy lies in challenging that judgment and decree in appeal. He cannot approach the revisional authority to secure indirectly what he failed to establish directly before the Civil Court.

11. The revisional authority erred in setting aside findings based on a binding civil court determination. The impugned order therefore cannot stand.

12. Hence, Rule is made absolute in terms of prayer clause (a).

13. The petition is disposed of.

(AMIT BORKAR, J.)