

Shabnoor

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

WRIT PETITION NO.18201 OF 2024

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Lokesh Bhimraj Jain & Anr. ... Petitioners

V/s.

The Secretary Padmanabh Darshan
Cooperative Housing Society Ltd. & Ors. ... Respondents

WITH

WRIT PETITION NO.18204 OF 2024

Sangeeta Bhimraj Jain & Anr. ... Petitioners

V/s.

The Secretary Padmanabh Darshan
Cooperative Housing Society Ltd. & Ors. ... Respondents

Ms. Anusha P. Amin, for the Petitioners.

Mr. Sachin P. Shetye, for Respondent No.1.

Mr. Rajesh Kachare a/w Kashvi Ail, for Respondent
No.2.

Mrs. V. S. Nimbalkar, AGP for the State – Respondent
No.3.

CORAM : AMIT BORKAR, J.

DATED : NOVEMBER 13, 2025

ORDER.:

1. Both petitions raise the same legal issue. A common order is therefore necessary. It avoids conflicting findings.
2. The petitioners assert that they purchased the flats from their predecessor in title. They rely on registered sale deeds. On that basis they sought transfer of membership in the cooperative

housing society and requested that their names be entered in the society records. The society declined to act on their request. The reason given was that the chain of title was not complete. One link in the chain from the original member was missing. The society therefore held that it could not record the petitioners as members.

3. The petitioners submit that their title stands on the strength of registered documents. They say that the society cannot question their ownership. They contend that once they hold registered instruments, the society has a legal duty to grant membership. The Authorities below did not agree. They found that the petitioners' vendor had claimed rights on the basis of an unregistered document. An unregistered instrument cannot convey right or title in such a case. If the vendor had no valid title, he could not pass any title to the petitioners. The petitioners' claim therefore fails at the threshold.

4. It is admitted that Respondent No.2 was a member of the society. The membership now stands in the name of an individual partner of Respondent No.2. The petitioners' plea that the society must follow the registered document holds good only when the transfer flows directly from a lawful member of the society. That is not the case here. The petitioners do not trace their title to the existing member. They trace it to a person who never held membership and who did not establish any lawful title. In such a situation the society cannot be compelled to accept their claim.

5. When a dispute of this nature arises, the proper course is clear. The petitioners must first establish their title before a

competent civil court. Title to immovable property cannot be determined in a summary manner. It requires proper pleadings, evidence, and findings. If the petitioners succeed in such proceedings, the society will have to abide by the court's declaration.

6. In view of this legal position, both petitions are disposed of. The petitioners are granted liberty to file appropriate proceedings for declaration of their title. The competent court will examine all issues. It will render its findings strictly in accordance with law.

7. Both petitions stand disposed of in these terms.

8. For clarity, this Court has not examined or decided the petitioners' right, title, or interest in the property. All such questions remain open. They shall be decided by the court before whom the petitioners approach for declaration of title.

(AMIT BORKAR, J.)