

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4606 OF 2025

Hareshwar Damodar Bhoir

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

- Ms. Gauri U. Warunjikar, for the Petitioner.
- Mr. Omkar A. Chandurkar, Addl. GP with Mr. Hamid Mulla, AGP for Respondent – State.

CORAM : MANISH PITALE, J.

DATE : 09th JUNE 2025.

P. C. :

1. Heard Ms. Warunjikar, learned counsel for the petitioner and Mr. Chandurkar, learned Addl. GP, appearing for the respondent No.1 – State.
2. Although by this petition, the petitioner is challenging the order dated 03rd February 2025, passed by respondent No.1 and seeks quashing and setting aside of the same, in the light of the order dated 23rd April 2025, passed by this Court (*Coram : Amit Borkar, J.*) in Writ Petition No.4603 of 2025, filed by this very petitioner, it is submitted that the present writ petition may also be disposed of in similar terms. In that light, it is submitted that service of notice on the other respondents is not necessary.
3. In the present case, the petitioner is the owner of the entire piece of land upon which the various development activities took place, leading to

forming of cooperative societies and the applications being moved before respondent No.1 for grant of deemed conveyances. Writ Petition No.4603 of 2025 concerns one such order passed by respondent No.1 granting such certificate of deemed conveyance. The present petition concerns another society forming a part of the entire piece of land, of which the petitioner claims to be the owner. In that sense, the learned counsel for the petitioner is justified in contending that while passing a similar order, service of notice on the other respondents may not be necessary.

4. The learned AGP submits that if the petitioner is seeking relief in terms of the aforementioned order passed in Writ Petition No.4603 of 2025, which only gives a clarification on the basis of the settled position of law, this Court may pass appropriate order.

5. In the said order dated 23rd April 2025 passed in Writ Petition No.4603 of 2025, this Court observed as follows :

“3. In evaluating the sustainability of the impugned order passed under Section 11 of MOFA, it becomes essential to recapitulate the narrow and specific jurisdiction conferred upon the Competent Authority under the said provision. The function entrusted to the Competent Authority is, in its essence, administrative in nature — directed at enforcing the statutory obligation of the promoter or landowner to convey title to the society of flat purchasers

in accordance with the sanctioned layout and registered agreements. The jurisdiction does not extend to adjudication of rival claims of ownership or to resolve disputes founded upon competing contractual entitlements.

4. *The consistent judicial pronouncements of this Court, including in Shimmering Heights CHSL & Ors. v. State of Maharashtra (W.P. No. 3129 of 2016, decided on 6 April 2016), Zainul Abedin Yusufali Massawala & Ors. v. Competent Authority (2016 SCC OnLine Bom 6028), P.R. Enterprises & Ors. v. Competent Authority (W.P. No. 11251 of 2016, decided on 27 November 2018), and Mehboob Ali Humza & Ors. v. District Sub-Registrar (3), Mumbai & Ors. (W.P. No. 3129 of 2016, decided on 24 June 2016), reiterate that in proceedings under Article 226, the High Court does not function as a forum to determine or settle disputes as to civil title, particularly when such disputes are already pending before a Civil Court of competent jurisdiction. In such matters, the constitutional jurisdiction under Article 226 is intended not to supplant the remedies available under ordinary civil law, but to act within the contours of public law remedies, guided by principles of judicial restraint.*
5. *It is further to be emphasized that the Competent Authority, under Section 11, exercises a statutory duty-bound power and does not undertake adjudication of title akin to a Civil Court under Section 9 of the Civil Procedure Code, 1908. The remedy of civil suit remains*

untrammelled and is the appropriate forum where evidentiary appreciation and resolution of title or ownership disputes can meaningfully occur.

6. *Having regard to the above principles, and to avoid the apparent conflict between the administrative action of the Competent Authority and the pendency of the civil suit instituted by the petitioner, it is clarified that the decision rendered under Section 11 of MOFA shall not preclude the petitioner from pursuing his remedy in the pending suit. Nor shall the order passed by the Competent Authority be treated as determinative of rights inter se the petitioner and the society or its members. The Civil Court shall adjudicate the matter on its own merits uninfluenced by any finding or observation made by the Competent Authority or by this Court in the course of deciding the present writ petition.*
7. *With the above clarification, the writ petition stands disposed of. No order as to costs.”*

6. Considering the fact that on facts there appears to be no distinction between the aforesaid petition and the instant petition, a similar clarification can be issued, so that the writ petition itself can be disposed of. In that light, the present writ petition is disposed of with a clarification that the Civil Court before whom the civil suit is pending, details of which have been specified in the petition, shall adjudicate the civil suit on its own merits, uninfluenced by any findings rendered by respondent No.1 in the impugned

order or by this Court while disposing of the present writ petition and that the petitioner shall not be precluded in pursuing his remedies before the Civil Court.

7. The Writ petition stands disposed of in above terms. Pending applications, if any, also stand disposed of.

(MANISH PITALE, J.)