

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SANTOSH
SUBHASH
KULKARNI

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WRIT PETITION NO. 7027 OF 2025

The Ghatkopar Shanti CHS Ltd.

...Petitioner

Versus

Dr. Dipti Hasmukh Desai and anr.

...Respondents

Ms. Trusha Bhavsar, i/b Rutvij Bhatt, for the Petitioner.

Mr. Rajesh Singh, a/w Ranjan Mishra and Hitesh Jain, for
Respondent No.1.

Mrs. Rupali Shinde, AGP for Respondent No.2.

CORAM: N. J. JAMADAR, J.

DATED: 14th JULY, 2025

Oral Order:-

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order passed by the Divisional Joint Registrar, Co-operative Societies, Mumbai, whereby the Revision Application No.6 of 2024 preferred by respondent No.1 challenging the order dated 7th November, 2023 passed by the Deputy Registrar, Co-operative Societies, under Section 22(2) of the Maharashtra Co-operative Societies Act, 1960 ("the MCS Act, 1960") came to be allowed and the petitioner Society was directed to transfer the share in the name of respondent No.1.

3. The learned Counsel for the petitioner submitted that the petitioner is not aggrieved as much by the order directing the Society to grant membership to respondent No.1 as by the claim of respondent No.1 that the area of Flat No.13 is 615 sq. ft. According to the Society, the area of the said Flat No.13 is 380 sq. ft only.

4. The revisional authority, after adverting to the decisions of this Court in the cases of *Harish Commercial Premises Co-operative Society Ltd. vs. Smt. Varsha Dinesh Joshi and others*¹ and *Usha Jhaveri vs. State of Maharashtra and others*² has observed that the question of the exact area of Flat No.13 and Garage-B and dispute as to the exact area of Flat No.13 and Garage-B is beyond the purview the powers conferred on the authorities under the MCS Act, 1960 and any dispute as to the title to the properties or legality or validity of the instruments is to be decided by the Competent Court/Authority having jurisdiction. Thus, the revision application came to be allowed and the petitioner was directed to transfer the share certificates in favour of respondent No.1.

1 2006(2) All MR 1.

2 WP/659/2011 dt.4/7/2011.

5. The view taken by the Divisional Joint Registrar is in consonance with law. Under the provisions of Section 22 of the MCS Act, 1960, where the Society refuses to admit a person as a member of the Society, it can only be directed to admit such person as its member. The question of title, or for that matter, the exact area of the subject premises is beyond the remit of inquiry envisaged by Section 22 of the MCS Act, 1960.

6. In any event, the petitioner – Society has been directed to transfer the shares in the name of the applicant – respondent No.1 herein in respect of Flat No.13 and Garage-B. Thus there is no propriety in entertaining the petition.

7. By way of abundant caution, it is clarified that the issue of exact area of Flat No.13 would be open for adjudication in appropriate proceedings.

8. With the aforesaid clarification, the petition stands dismissed.

[N. J. JAMADAR, J.]