

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

CIVIL WRIT PETITION NO. 8651 OF 2025

Smt. Cecelia Peter Rodrigues ..Petitioner
Versus
Assistant Registrar, Co-Op. Soc. Mumbai & Ors. ..Respondents

Mr. Prasad B. Kulkarni h/f. Dipak Mane for Petitioner.
Mr. Bapusaheb Dahiphale, AGP for State/ Respondent.
Ms. Anjali Chandurkar a/w. Siddhi Vora and Shivshankar P for
Respondent No.2.

CORAM : AMIT BORKAR, J.
DATE : 07 NOVEMBER 2025

PC :

1. The petitioner asserts a right of membership in the housing society relating to a particular share. He challenges the judgment and orders passed by the authorities under Section 23(2) of the Maharashtra Cooperative Societies Act. The dispute concerns the recognition of membership by the authorities. The petitioner states that his right as a member has been ignored. He seeks to set aside the orders on the ground that they adversely affect his claimed interest in the society.

2. Respondent No.2 states that his claim is based on a registered gift deed executed by an earlier member. The existence of this gift deed is not disputed. The petitioner has already filed

Civil Suit No.2113 of 2014 before the civil court. In that suit, the petitioner challenges the validity of the gift deed and seeks a declaration that the deed is not binding on him. Once the issue of validity of the gift deed is pending before the competent civil court, the finding of the cooperative authorities on membership cannot conclude the dispute relating to title.

3. The authorities under the Act have accepted the registered gift deed as a valid document for granting membership to Respondent No.2. They have acted within the scope of Section 23(2). The authorities have also recorded that the grant of membership will remain subject to the outcome of Civil Suit No.2113 of 2014. This shows that the authorities have not adjudicated on the title. They have only considered whether there exists a registered document prima facie showing transfer. On that basis, they granted membership. At the same time, they safeguarded the rights of the petitioner by making the grant subject to the final decision of the civil court.

4. It is a settled principle of law that membership in a cooperative housing society does not by itself confer ownership or extinguish ownership of immovable property. Membership is only an incident of possession of shares in the society. Any claim relating to title or interest in immovable property must be decided exclusively by the civil court. Such rights flow from a lawful registered document. Respondent No.2 claims through a registered

instrument. Hence the cooperative society and the authorities accepted his membership. However, that membership will not determine who is the lawful owner. The result of Civil Suit No.2113 of 2014 will decide the rights flowing from the gift deed. Therefore, the decision of the authorities granting membership to Respondent No.2 is provisional and depends upon the final adjudication by the civil court.

5. In my opinion, therefore, no interference is called for.
6. The petition is dismissed.

(AMIT BORKAR, J.)