

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8992 OF 2025**

Ramesh Kisan Badgujar

..Petitioner

Versus

State of Maharashtra (Through the Secretary,
Housing Department, Mantralaya, Mumbai – 400
032) & Ors

...Respondents

Mr. Viraj R. Patil, for the Petitioner.
Ms. Tanu Bhatia, AGP, for Respondent Nos. 1 to 3-State.
Adv Triveni Jani, for Respondent No.4.

CORAM: N. J. JAMADAR, J.
DATE : 3rd NOVEMBER 2025

ORDER:

1. Heard Mr. Viraj R Patil, for the Petitioner, Ms Tanu Bhatia, AGP, for the Respondent Nos. 1 to 3-State and Ms Triveni Jani, for the Respondent No.4.

2. The challenge in this Petition is to an order dated 20th March 2025 passed by the Competent Authority and District Deputy Registrar, Cooperative Societies (2), East Suburban, Mumbai, granting a certificate of Unilateral Deemed Conveyance in favour of the Respondent No.4-Society in respect of land admeasuring 3736.60 sq mtrs and the buildings thereon situated at CTS Nos. 1460/A, 1460/B,

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1460/C, 1461, 1461/1, 1461/2, 1461/3 and 1459, situated at Village Mulund, Taluka Kurla Mumbai Suburban District (“the subject premises”) under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (“MOFA, 1963”).

3. The Respondent No.5 is the promoter. The Respondent No.5 constructed a building having two wings with stilt plus seven upper floors each, comprising of total 42 flats 18 garages and one society office.

4. The Respondent No. 5 sold the units in the said building in favour of flat purchasers by executing Agreements contemplated by Section 4 of MOFA, 1963. As the Respondent No. 5 committed default in conveying his right, title and interest in the subject premises, the Respondent No.4-society filed an Application under Section 11 of MOFA, 1963, before the Competent Authority. The Petitioner came to be impleaded therein as the Respondent No.5 being one of the owners of portion of the subject land.

5. By the impugned order dated 20th March 2025, the Competent Authority granted a certificate of Unilateral Deemed Conveyance as all the prerequisites for grant of such certificate were fulfilled. As regards the Petitioner’s interest in the subject premises, the Competent Authority noted that the Respondent No. 5 had issued an Allotment

Letter dated 29th April 2002, in favour of the Petitioner to construct a structure comprising of ground plus one story house, admeasuring 2000 sq ft built up area only, without having any share, right and interest in the land. The Petitioner had agreed to convey the land in favour of the Respondent No.5-promoter or his nominee including a cooperative housing society and the Petitioner had also agreed to become a member of the society of the flat purchasers. Thus, the Petitioner had no subsisting right, title and interest in the subject premises apart from the said structure allotted to him by the Respondent No.5.

6. Mr. Viraj Patil, the learned Counsel for the Petitioner, submitted that the Competent Authority has completely misconstrued the Letter of Allotment. Mr. Patil invited the attention of the Court to the Agreement of Sale dated 25th August 1988 and the Agreement dated 5th April 1994 and submitted that the Respondent No. 5-promoter had committed default in payment of the balance consideration as agreed under the Agreement dated 5th April 1994 and, therefore, the Competent Authority could not have read the Allotment Letter dated 29th April 2002 *dehors* the Agreements dated 25th August 1988 and 5th April 1994.

7. I have perused the letter of allotment dated 29th April 2002. The recitals in the registered Letter of Allotment make the position abundantly clear. The Petitioner had, *inter alia*, agreed to convey the

property described in the schedule appended thereto to the Promoter or his nominee including a cooperative housing society, as may be directed by the Promoter, and that save and except the residential premises allotted to the Petitioner and that the Petitioner shall not have any claim on the remaining portion of the subject property and/or parking space and/or buildings constructed by the Promoter. However, the Petitioner will have full right to access roads located within the society and leading to the premises allotted to the Petitioner. The Petitioner had further agreed that the Petitioner shall join in the formation of the society and shall subscribe for the issue of five shares.

8. In the face of the aforesaid recitals in the letter of allotment, I am afraid, the submission on behalf of the Petitioner that on account of the failure on the part of the promoter to comply with the purported obligations under the Agreements dated 25th August 1988 and 5th April 1994, the Competent Authority could not have granted a certificate of Unilateral Deemed Conveyance in favour of the Respondent No.4- society.

9. It is trite the remit of enquiry by the Competent Authority is of a limited nature. It is the statutory obligation of the promoter which the Competent Authority enforces by granting a certificate of Unilateral Deemed Conveyance. The Competent Authority is neither competent nor empowered to delve into the question of title to the subject

premises. Any person aggrieved by the grant of the certificate of Unilateral Deemed Conveyance is entitled to institute a Suit in relation to the title to the subject property.

10. In the case of **Arunkumar H. Shah HUF Vs Avon Arcade Premises Coop Society Ltd,**¹ the Supreme Court has enunciated the position in law as under:

“37.

i.

ii. The competent authority, while following the summary procedure, cannot conclusively and finally decide the question of title. Therefore, notwithstanding the order under sub-section (4) of Section 11, the aggrieved parties can always maintain a civil suit for establishing their rights;

iii. The provisions of Section 11 are for the benefit of the flat purchasers. Court should not In writ jurisdiction, the interfere with the order granting deemed conveyance unless the same is manifestly illegal. The writ court should generally be slow in interfering with such orders. The reason is that, notwithstanding the order under Section 11(4), the remedy of aggrieved parties to file a civil suit remains open; and

iv.”

1 2025 SCC OnLine SC 828.

11. As the dispute sought to be raised by the Petitioner essentially revolves around the question of title, no case for interference in exercise of writ jurisdiction is made out.

12. Hence, the Petition stands dismissed.

[N. J. JAMADAR, J.]