

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11338 OF 2025

Walter Thomas Machado & Ors

..Petitioners

Versus

District Sub-Registrar, Cooperative Societies and
the Competent Authority, Palghar & Ors

...Respondents

Mr. Aadil Parsurampuriah, with Aimaan Shaik, for the Petitioners.

Mrs. M.S. Srivastav, AGP, for the Respondent-State.

Mr. Siddhesh S. Borkar, with Anil Nagotkar and Hitendra Parab, for
Respondent No.2.

Mr. Aditya Kanchan, with Ozal Gandhi, i/b Lakshyavedhi, for
Respondent No.4.

CORAM: N. J. JAMADAR, J.

DATED : 22nd SEPTEMBER 2025

ORDER:

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order passed by the Deputy Registrar and Competent Authority under the Maharashtra Ownership Flats (Regulation of The Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("the MOFA") on 16th July 2025, thereby issuing a Unilateral Deemed Conveyance Certificate in favour of the Satyam Lok Prabhat Cooperative Housing Society (R2) for an area admeasuring 2473.705 sq mtrs, only.

ARUN
RAMCHANDRA
SANKPAL

Digitally signed by
ARUN
RAMCHANDRA
SANKPAL
Date: 2025.09.24
18:13:50 +0530

3. The Petitioners are the members of the Respondent No.2-society. The Respondent Nos. 3 and 4 are the promoters within the meaning of Section 2(c) of the MOFA.

4. The Respondent No.2 -society had filed an Application, being Application No. 1675 of 2021, before the Competent Authority. By an order dated 19th June 2023, the Competent Authority had directed to issue of Unilateral Deemed Conveyance Certificate in respect of 738.48 sq mtrs of land only.

5. Aggrieved, the Respondent No.2 had filed Writ Petition No. 11725 of 2023, before this Court. This Court had appointed an Architect to carry out an independent exercise of measurement of subject properties. The Architect submitted a report.

6. By an order dated 15th April 2025, this Court disposed of the said Petition and remanded the Application back to the Competent Authority for afresh decision after taking into consideration the Architect's Certificate dated 10th January 2025 and evaluating the same in the light of the Government Resolution dated 22nd June 2018 which prescribes the parameters and methodology for measurement and for determination of entitlement for conveyance under the provisions of MOFA.

7. During the pendency of the said proceeding before the Competent Authority, the Respondent No.2-society and the Promoter

(R4) arrived at a settlement of the dispute. A joint Application was filed before the Competent Authority with a prayer to grant conveyance to the extent of the land admeasuring 2473.705 sq mtrs in favour of the Respondent no.2-society.

8. The Competent Authority after considering the material on record and the Government Resolution dated 22nd June 2018 was persuaded to allow the Application and grant a Certificate for Unilateral Deemed Conveyance in respect of an area admeasuring 2473.705 sq mtrs.

9. The Petitioners have preferred this Petition asserting *inter alia* that the Competent Authority has not scrupulously complied with the directions of this Court in the order dated 15th April 2025 and failed to give due weight to the Architect's Certificate.

10. It is further alleged that there was an illicit and unwarranted settlement between the Society and the Promoter (R4). The said settlement and the consequent order passed by the Competent Authority impinges upon the rights of the Petitioners.

11. As a dispute was raised regarding the competence of the society to arrive at the settlement and the legality of the process adopted by the society (R-2), the Respondent No.2 was directed to file an Affidavit and place on record the copy of the Resolution passed by the society and the connected documents. An Affidavit in Reply has been filed on behalf of the society.

12. Mr. Parsurampur, the learned Counsel for the Petitioner, submitted that in the Certificate dated 10th January 2025 issued by the Architect appointed by this Court, the entitlement of the Respondent No.2-society is assessed at 3327.72 sq mtrs. The Competent Authority which was discharging statutory duties was enjoined to pass the order in accordance with the provisions of MOFA and the Rules framed thereunder. The Competent Authority thus could not have passed the impugned order on the basis of the compromise arrived at between the society and the Promoter (R4).

13. It was submitted that in the process, the Competent Authority failed to give effect to the directives contained in the GR dated 22nd June 2018. Reliance was sought to be placed on a judgment of a learned Single Judge of this Court in the case of **Runwal Paradise Through the Chairman Sanjay Kulkarni and through the Treasurer Parag Tikle Vs District Deputy Registrar Coop Societies and Ors,**¹ wherein it was enunciated that the Competent Authority was bound to consider the Government Resolution dated 22nd June 2018 before granting Certificate for Unilateral Deemed Conveyance.

14. Mr. Siddhesh S. Borkar, the learned Counsel for the Respondent No.2, supported the impugned order. Attention of the Court was invited to the copies of the Resolution passed in the Special General Body Meeting of the society dated 15th June 2025, whereby the society

1 2024 SCC OnLine Bom 2041.

resolved to accept the Deemed Conveyance for an area of at least 2073 sq mtrs. The society, however, succeeded in persuading the Promoter to agree to grant conveyance in respect of 2473.705 sq mtrs. Mr. Borkar would thus urge that the Petitioners, who are the individual members of the Respondent No.2-society, have no locus to challenge the impugned order.

15. At the outset, it is necessary to note that the Competent Authority has not proceeded solely on the basis that the Respondent No.2-society and the Promoter (R4) arrived at an amicable settlement of the dispute.

16. The Competent Authority has considered the prayer for Unilateral Deemed Conveyance in the light of the provisions of the MOFA and the directives contained in the Government Resolution dated 22nd June 2018. Therefore, the challenge to the impugned order on the premise that, the Competent Authority has passed the impugned order in abdication of its statutory duties does not merit countenance.

17. Secondly, the Respondent No.2-society has placed on record adequate material to show that the society had unanimously resolved to seek Deemed Conveyance of at least 2073 sq mtrs. *Prima facie*, the Court does not find any irregularity in the society taking a decision in its Special General Body Meeting.

18. Thirdly, the legal position is well settled that, once a person becomes a member of co-operative society, he loses his individuality qua

the society and he has no independent rights except those given to him by the statute and the by-laws. He must act and speak through the society or rather, the society alone can act and speak for him qua rights or duties of the society as a body (**Daman Singh & Ors Vs State of Punjab & Ors**)²

19. In this view of the matter, the challenge to the impugned order, at the instance of the Petitioners, who are the members of the Respondent No.2-society, when the society as a body has resolved to enter into the settlement of the dispute with the Promoter (R4) cannot be sustained. The Court also does not find that the terms of the settlement are wholly unconscionable and unreasonable. The context can be lost sight of. Initially, the Deemed Conveyance order was granted only in respect of an area admeasuring 738.48 sq mtrs. The Court finds that the impugned order is sustainable even in the light of the directions contained in Clause (B)(iv)(1) of the Government Resolution dated 22nd June 2018.

20. In any event, the challenge at the instance of the Petitioners revolves around the question of entitlement to a larger area. It is trite, under Section 11(4) of the MOFA, the Competent Authority does not decide the questions of title over the property. If the Petitioners are aggrieved by the impugned order they can work out their remedies before the appropriate Courts.

21. Therefore, the Petition does not deserve to be entertained.

² (1985) 2 SCC 670.

22. Hence the following order:

: O R D E R :

The Petition stands dismissed.

[N. J. JAMADAR, J.]