



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.15403 OF 2025**

Subodh Harishchandra Pandit and Ors. ... Petitioners
versus
The Competent authority and Ors. ... Respondents

Mr. Vaibhav Patankar (through VC) with Mr. Nihar chitre i/by Nihar Chitre, for
Petitioners.

Mrs. Savita Prabhune, AGP for State.

CORAM: N.J.JAMADAR, J.

DATE : 17 NOVEMBER 2025

ORDER :

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order dated 16 September 2025 passed by the Deputy Registrar, Co-op. Societies and Competent Authority, whereby the unilateral deemed conveyance certificate has been issued in favour of Respondent No.2 Society, under the provisions of Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.
3. Learned Counsel for the Petitioners submitted that, in the MOFA Agreement there is no reference to CTS No.795, of which the Petitioners are the owners. Yet, in the certificate of unilateral deemed conveyance, the said property is included. Emphasis was laid on the fact that the mutation of the suit property in the name of Respondent Nos.3 to 6, who had executed a

conveyance in favour of M/s. Niraj Builders (R7), has been set aside by the Deputy Director of Land Records and the said order was upheld by the State Government. Consequently, the names of the Petitioners have been mutated to the record of rights of CTS No.795 as holders thereof. In these circumstances, the Competent Authority could not have granted a certificate of deemed conveyance in respect of CTS No.795 as well.

4. The Competent Authority was of the view that the title dispute was beyond the province of its authority, and, even where the Competent Authority grants a certificate of deemed conveyance, it would not be final and conclusive and the aggrieved party can institute a civil suit.

5. In the case at hand, the Petitioners have already instituted a civil suit on the basis of title.

6. The view taken by the Competent Authority appears sustainable. The Competent Authority has noted that the land bearing CTS No.795 has also been in the possession of respondent no.2 since 1983. The occupation certificate was issued in the year 1977. Mutation of the suit property in the name of Respondent Nos.3 to 6 was assailed by the Petitioners in the year 2017. Moreover, the Petitioners have already instituted a suit in the year 2018 seeking a declaration that they are the owners of CTS No.795.

7. It is trite, the Competent Authority is neither expected nor competent to adjudicate the questions of title. What the Competent Authority enforces is

the obligation of the promoter and owner to convey the land and building to the purchasers of the flats in accordance with the provisions contained in the MOFA, 1963.

8. By a catena of decisions, it is well settled that the grant of a certificate of unilateral deemed conveyance is not conclusive of the dispute as to the proprietary title over the land in respect of which such certificate has been granted. A useful reference in this context can be made to the decision of the Supreme Court in the case of **Arunkumar H. Shah HUF V/s. Avon Arcade Premises co-op. Soc. Ltd. and Ors.**¹, wherein the Supreme Court culled out the principles as under :

“37.....

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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. In writ jurisdiction, the Court should not 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”

1 2025 SCC Online SC 828

9. In the case at hand, the Petitioners have already instituted a suit for declaration of title over the subject land. Thus, the Petitioners can work out their remedies before the civil court, inclusive of prohibitory orders in relation to the execution and implementation of the unilateral deemed conveyance.
10. Therefore, in exercise of the supervisory jurisdiction, this court does not find such infirmity in the impugned order as could render it manifestly illegal.
11. Resultantly, the Writ Petition does not deserve to be entertained.
12. The Writ Petition stands dismissed.

(N.J.JAMADAR, J.)