

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

MISCELLANEOUS CIVIL APPLICATION NO. 414 OF 2025

Krish Sanjay Kumar Sainani

..Applicant

Versus

**ANAND
SUDHAKAR
SUDAME**

Krishna (Khar) Co-operative Housing Society Limited ..Respondent

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by ANAND
SUDHAKAR
SUDAME

Date: 2026.01.03
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Mr. Anish Karande a/w. Mr. Amit Chavan, Mr. Satchit Gor, Mr. Aaryan Gor & Mr. Shyam Singh i/b. Tatsat Gor, Advocates, for the Applicant
Ms. Sanika Athalye i/b. Mr. Raval - Shah & Co., Advocate, for Respondent No. 1
Mr. Girish Thanvi, Advocate, for Respondent No. 5
Mr. Swayan S. Chopda, OSD, Court Receiver a/w. Ms. V. N. Worlikar, Section Officer, Court Receiver present

CORAM : RAJESH S. PATIL, J.

DATE : 23.12.2025

P. C.

1. This transfer Application has been filed by the Plaintiff, who is one of the flat purchasers seeking transfer of suit which was transferred from the High Court, Bombay to the City Civil Court, Bombay, back to the High Court, Bombay and to be heard along with two suits, one filed by other flat purchaser and the other filed by the Co-operative Housing Society Limited.

2. Ms. Athalye, learned Counsel appearing on behalf of Respondent No. 1 (Co-operative Housing Society Limited) has no objection, if the present MCA is allowed. On 09.08.2025, learned Counsel for

Respondent Nos. 3A to 3D was not present. Today, when the matter is called out, he is not present. Even yesterday when the matter was called out, he was not present. Therefore, learned Counsel for the Applicant was directed to serve him notice informing him that the matter is kept today. Learned Counsel for the Applicant submits that learned Counsel for Respondent Nos. 3A to 3D was duly served who was also served with notice for Respondent Nos. 2, 3A to 3D. It appears that Respondent Nos. 2 to 4 are not interested in appearing in the present proceeding and making submissions.

3. With regard to Respondent No. 5, Mr. Thanvi has opposed the MCA only on the ground that the suit of which transfer has been sought has been abated, as the Plaintiff had died and legal heirs are not brought on record. Therefore, the suit which has been abated cannot be transferred from the High Court, Bombay.

4. Mr. Karande, learned Counsel for the Applicant submits that before the suit was transferred from the High Court, Bombay to the City Civil Court, Bombay, legal heirs of the deceased Plaintiff were already brought on record and therefore, there is no question of abatement of the suit.

5. As all the parties have been served, I have proceeded further with the hearing of the MCA.

6. None of the Respondents have filed any reply opposing the MCA.
7. Ms. Athalye, learned Counsel for Respondent No. 1, on instructions of his client has no objection, if the present MCA is allowed.
8. As regards Respondent No. 5, only objection was of the abatement of the suit which has been answered by learned Counsel for the Applicant that there is no question of abatement of the suit, as legal heirs are already brought on record as per order of this Court.
9. As regards the remaining Respondents i.e. Respondent Nos. 2, 3 & 4, though served have not preferred any kind of reply opposing the MCA.
10. This MCA is seeking transfer of the suit No. 4006 of 2024, pending before the City Civil Court, Bombay (earlier numbered as Suit No. 186 of 2016 in High Court, Bombay). The suit has been filed by the Applicant who claims to be purchaser of flat No. 1201 in the building known as “Krishna Niwas”. The suit is for specific performance of registered Agreement dated 05.05.2012. The said suit was initially filed in the High Court, Bombay when two more suits were already pending regarding the same building known as “Krishna Niwas”. The first suit was filed by the Co-operative Housing Society Limited. The Society’s suit is filed for declaration that the Development Agreement with

Respondent No. 2 is lawfully terminated and the Defendants therein are not entitled to continue and carry out the remaining work of the building known as “Krishna Niwas”. One more suit No. 591 of 2014 is filed by other purchaser seeking a declaration that their Agreement with the developer was valid, subsisting and binding upon the Defendants therein.

11. By an order dated 06.12.2018, a learned Single Judge of this Court while hearing the suit filed by the Co-operative Housing Society Limited in para 5 mentioned that the suit filed by the present Applicant and the suit filed by the other flat purchasers be heard along with the suit filed by the Co-operative Housing Society Limited. This order was passed when the suit filed by the present Applicant was still pending in this Hon’ble Court. Hence, on few occasions, all the three suit were heard together.

12. In my view, considering the relief which has been sought in all the three suits, two suits are pending before the High Court, Bombay and one suit is pending before the City Civil Court, Bombay and which was earlier filed in this Court will have a bearing on the directions which will be passed in all the three suits. Therefore, for the convenience of the parties and also to save time and costs, according to me, the suit which has been transferred to the City Civil Court, Bombay

needs to be called back and to be heard along with two pending suits.

13. In view of the same, the Miscellaneous Civil Application **stands allowed** in terms of **prayer clause (b)**.

14. The proceeding, being Suit No. 4006 of 2024 pending before the City Civil Court, Bombay be transferred to the High Court, Bombay within a period of four weeks from today and the suit be heard along with Suit No. 426 of 2013 and Suit No. 591 of 2014.

(RAJESH S. PATIL, J.)