

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1 OF 2025

1. Dattani Nagar One CHS Ltd.
2. Dattani Nagar Two CHS Ltd.
3. Dattani Nagar No.3 CHS Ltd.
4. Abhigna CHS Ltd.

(All co-operative Societies registered under
Maharashtra Co-Operative Societies Act, 1960,
having their Offices at CTS No. 60A,
S.V. Road, Borivali (West),
Mumbai – 400 092.

... Petitioners

V/s.

The State of Maharashtra
through Sub-Registrar of Assurances,
Borivali No. 6, MSD having its Office
At MTNL, S.V. Road, Goregaon (West),
Mumbai – 400 104.

... Respondent

Mr. Rohaan Cama a/w. Mr. Anish Karande i/b. Mr. Satish Dedhia for
Petitioners.

Ms. Prachi Tatake, Addl. G.P for State – Respondent No. 1 (through VC).

CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.

RESERVED ON : 3rd DECEMBER 2025
PRONOUNCED ON : 8th DECEMBER 2025

ORDER (Per Farhan P. Dubash J.) :

1. The present Writ Petition has been preferred by four Co-Operative Housing Societies, registered under Maharashtra Co-Operative Societies Act, 1960, for an order directing the Respondent herein *viz.* Sub-Registrar of Assurances, Borivali – 6 to permit them to present and lodge the Consent Decree dated 24th December 2021 (**consent decree**) for registration, by condoning the delay that has occasioned in the process.

2. By an order dated 14th November 2024 passed by Respondent, the application dated 25th October 2024 of the Petitioners which was submitted on 4th November 2024 under which, the consent decree was sought to be lodged for registration came to be rejected on the ground that the same was done belatedly and after the expiry of the statutory period of registration. Being aggrieved, the Petitioners have approached this Court seeking reliefs under Article 226 of the Constitution of India.

3. Briefly stated, the facts which are relevant for deciding the present Writ Petition are set out hereunder:

(i) On 9th September 2021, consent terms came to be executed between Petitioner No. 1 herein, one M/s. Dattani Enterprises and Petitioner Nos. 2 to 4 herein, in Long Cause Suit No. 3049 of 2009 before the Bombay City Civil Court at Dindoshi. Under these consent terms, it was agreed, declared and confirmed that the Petitioners would be the sole, exclusive and joint owners of the subject property viz. *“Plot bearing CTS No. 60A, admeasuring about 7678.80 sq. metres of Village Magathane”* (**subject property**) and that there would be a joint conveyance of the subject plot in favour of the Petitioners. It was also agreed that the consent decree would operate as a conveyance in favour of the Petitioners.

(ii) On 4th October 2021, an order came to be passed by the Bombay City Civil Court at Dindoshi, decreeing the said Suit No. 3049 of 2009 in terms of the aforesaid consent terms and a consent decree was directed to be drawn up.

(iii) On 24th December 2021, the consent decree was issued and granted by the Bombay City Civil Court at

Dindoshi, after which, an application was made by the Petitioners for a certified copy thereof, sometime on or about 8th February 2022 and which certified copy was provided to them on 16th February 2022.

(iv) Since the consent decree is a document which is compulsorily registrable under Section 17 of the Registration Act, 1908 (**Act**), it was required to be first adjudicated by the Collector of Stamps, Borivali (**Collector**) for determination of the stamp duty and penalty, if any, payable thereon. The petition states that since voluminous documents were required from each of the 211 members of the four Petitioner Societies, with most of them being very old since they pertained to transactions that had taken place in the late 1970's, this exercise took some time. Ultimately, it appears that some time on or about 18th August 2022, after collecting all the necessary documents, the Petitioners made an application (**application**) to the Collector through the Petitioner No. 1 for adjudication of the consent decree.

(v) Thereafter, it seems that requisitions were sought

by the Collector which are stated to have been complied with by the Petitioners. However, despite furnishing the requisite documents, it appears that on 29th May 2023, without any notice/intimation to the Petitioners, the Collector had closed the application. When the Petitioners learnt of this, a fresh application was filed by them on 11th September 2023 (**fresh application**). The Petitioners have contended that despite all the queries that were sought by the Collector being answered by them and relevant documents being submitted by them, the application was erroneously closed by the Collector.

(vi) Ultimately, on 4th October 2024, a demand notice and order came to be issued by the Collector (*on the fresh application*) levying stamp duty of Rs. 23,86,010/- together with penalty of Rs. 59,200/- on the aforesaid consent decree. These amounts were paid on 7th October 2024 and accordingly, on 18th October 2024, a final adjudication order bearing no. 118052124 came to be passed by the Collector treating the aforesaid demand notice and order dated 4th October 2024, as final, and recording payment of the aforesaid amount of stamp duty

and penalty by the Petitioners.

(vii) Thereafter, the Petitioners are stated to have taken steps for lodging the consent decree for registration but the online system of the Respondent did not permit them to do so which led them to making an application dated 25th October 2024 seeking to register the consent decree, which came to be rejected by the order dated 14th November 2024 passed by the Respondent stating that since the period of registration had expired, the document could not be registered.

(viii) Accordingly, the present Writ Petition has been filed.

4. We have heard Mr. Rohaan Cama, learned Counsel who appears on behalf of the Petitioners and Ms. Prachi Tatake, Addl. Government Pleader who appears on behalf of the Respondent.

5. Mr. Cama has taken us through the events that have transpired since the passing of the consent decree which led to the application for its registration which came to be rejected by the Respondent. The dates and

events in this regard are noted hereinabove. He submits that the time taken by the Petitioners in getting the consent decree adjudicated from the Collector, is required to be excluded whilst computing the statutory period fixed under the Act within which the Petitioners were required to submit the consent decree for registration.

6. He states that the application was filed on 18th August 2022 and the final adjudication order was passed by the Collector on 18th October 2024. He therefore submits that this period of twenty-six months is required to be excluded, inasmuch as, this delay was beyond the control of the Petitioners. He also submits that the time taken by the Petitioners in receiving the certified copy of the consent decree is also required to be excluded for the same reason. He contends that if these two time periods are excluded, then the consent decree can be lodged for registration under Section 25 of the Act since the same would fall within the additional period of four months prescribed thereunder.

7. He points out that the Collector has erroneously closed the application on the ground that the Petitioners had not supplied the relevant documents when in fact, all the requisite documents were furnished to him

vide letter dated 15th September 2022. In this regard, he invites our attention to the various documents that are annexed to the Writ Petition including the said letter dated 15th September 2022. He submits that, in such circumstances, for no fault of the Petitioners, the application came to be erroneously closed by the Collector and which resulted in the Petitioners having to file the fresh application, on legal advice, instead of challenging such closure and therefore, the entire time of twenty-six months, taken for this exercise – from the date of the application till the date of the final adjudication order is required to be excluded since the same was unavoidable.

8. After inviting our attention to the provisions of Sections 23 and 25 of the Act, Mr. Cama submits that the Petitioners had an aggregate period of eight months within which, they could lodge the consent decree for registration. He tendered a chart setting-out the exact period that is required to be excluded whilst computing this aggregate period. After relying on the said chart, he submits that till the date of filing of the present Writ Petition, only seven months and twenty-four days have elapsed since the consent decree came to be executed and therefore, the consent decree can be lodged for registration under Section 25 of the Act since it falls within the additional period of four months prescribed thereunder. Without prejudice, he submits

that in the peculiar facts of the case, this Court would always have the power whilst exercising writ jurisdiction under Article 226 of the Constitution of India, to condone the delay on the part of the Petitioners and direct the Respondent to accept the consent decree for registration on such terms and conditions that it deems fit. He therefore submits that the present Writ Petition be allowed.

9. Ms. Prachi Tatake, learned Addl. GP who appears on behalf of the Respondent submits that whilst she has no issues with the case pleaded in the present Writ Petition, it is always open to the Petitioners to execute a fresh Deed of Confirmation confirming the execution of the consent decree that is sought to be registered and then submit such Deed of Confirmation for registration within a period of four months from the date of its execution. In support, she relies on a copy of the Circular dated 22nd December 2011 to that effect, which is also annexed to the affidavit-in-reply dated 16th June 2025 filed by the Respondent.

10. She submits that the entire registration process is computerized and if the date of the document that is sought to be registered is beyond the period prescribed in Section 23 read with Section 25 of the Act, the online

registration system would not permit such a document to be uploaded.

11. Having considered the submissions made by both the parties and after perusing the record, we feel that this is a fit case for this Court to exercise extra-ordinary writ jurisdiction and grant reliefs to the Petitioners. We have gone through the chronology of events and also considered the chart submitted by Mr. Cama. For the sake of ready reference, the chart is reproduced hereunder:

24.12.2021 to 08.02.2022	Period between the date of issuance/grant of the Consent Decree and the date of making the Application for a certified copy of the Consent Decree.	1 month 14 days
08.02.2022 to 16.02.2022	Period between the date of the Application for certified copy of the Consent Decree and the date of obtaining/delivery of the certified copy.	To be Excluded
16.02.2022 to 18.08.2022	Period between the date of obtaining/delivery of the certified copy of the Consent Decree and the date of making the Adjudication Application to the Collector of Stamps, Borivali.	6 months 2 days
18.08.2022 to 18.10.2024	Period between the date of making the Adjudication Application and the (Final) Adjudication Order passed by the Collector of Stamps, Borivali.	To be Excluded
18.10.2024 to 25.10.2024	Period between the date of the Final Adjudication Order and the Application made to the Sub-Registrar of Assurances, Borivali seeking registration of the aforesaid Consent Decree.	8 days
	Total time (after deducting the excluded period as above)	7 months 24 days

12. Upon consideration of the dates and events, as set out hereabove, it is revealed that 7 months and 24 days are required to be taken

into consideration whilst computing the time period under Sections 23 and 25 of the Act. In the premises, there is no need and/or occasion for the Petitioners to execute any Deed of Confirmation, as contended by the Respondent.

13. We note that the Petitioners are four co-operative housing societies in Mumbai having about 211 members and considering the nature of the documents that were required to be submitted to the Collector for adjudication of stamp duty, it is quite understandable that some time would have been taken by them, to collate the voluminous and old documents from all the members and thereafter, lodge the same for adjudication. We have also gone through the record which corroborates the case put forth by Mr. Cama, explaining and justifying the fresh application.

14. For the sake of convenience and ready reference, it would be advantageous to reproduce the relevant provisions of the Registration Act, 1908 hereunder :-

“23. Time for presenting documents

Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months

from the date of its execution:

Provided that a copy a of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final."

"25. Provision where delay in presentation is unavoidable

(1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in [India] is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate."

15. Under Section 23 of the Act, a party is provided with a period of four months to lodge a document for registration. On expiry of this period of four months, a further period of four months is provided to the party, if owing to urgent necessity or unavoidable accident, such party is able to show that the document could not be presented earlier. In such event, the Respondent is empowered to condone the delay in presentation and in the process, he may impose a fine not exceeding ten times the amount of the proper registration fee, which we are informed, is Rs. 30,000/-.

16. In the present case, whilst we are satisfied of the unavoidable

delay that has occasioned to the Petitioners in getting the consent decree adjudicated before presenting it for registration, there is no reason for them to seek any exemption and avoid payment of the fine that is prescribed under Section 25(1) of the Act.

17. In the premises, the present Writ Petition is disposed of in terms of the following order :

:: ORDER ::

- (a) On or before 5th January 2026, the Petitioners shall submit/lodge the consent decree together with all the other necessary documents for registration with the Respondent.
- (b) Prior thereto, the Petitioners shall make payment of the proper registration fee together with a fine that is computed at ten times the proper registration fee, as prescribed under Section 25(1) of the Act.
- (c) There shall be no order as to costs.

[FARHAN P. DUBASH, J.]

[R.I. CHAGLA, J.]

JYOTI
PRAKASH
PAWAR

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by JYOTI
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Ajay Jadhav
WP/1/2025