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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION

INTERIM APPLICATION NO.1706 OF 2024
IN
TESTAMENTARY PETITION NO. 2700 OF 2019

Ajay Narayan Kurup ...Applicant

In the matter between

Ajay Narayan Kurup .. Petitioner

Versus

The Chairman Secretary ...Respondent
Nishant Co-operative Housing Society Ltd.

Ms. Seema Hunnurkar, for the Applicant/Petitioner.
Mr. Suresh R. Sawant, for the Respondent.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : NOVEMBER 19, 2025

P. C. :

1. The Interim Application has been preferred seeking direction to the Respondent – Society to transfer the subject flat as per the Will of the deceased. Learned counsel appearing for the Applicant submits that the probate was granted on 05/05/2021 and an application was made for transfer of the flat in the name of the Applicant. She submits that despite the grant of the probate, the Respondent-Society has

declined to transfer the flat in favour of the Applicant. She would further submit that during the lifetime the deceased has also nominated the Applicant.

2. Learned counsel appearing for the Society submits that the Applicant had approached the Society seeking transfer of the flat in accordance with the grant of probate and at the same time, some other legal heir had approached the Society and therefore the Society did not take any steps for transfer of the flat. Upon query by this Court, learned counsel appearing for the Respondent- Society submits that apart from legal notice issued by the other legal heir, there is no stay order restraining the Society from transferring the flat as per the Will of the deceased. He would also submit that he is not aware whether any proceedings have been taken out for revocation of the probate granted by this Court.

3. Considering that the Applicant was the nominee of the flat, in view of Section 30 of the Co-operative Societies Act, 1960, the Society ought to have transferred the flat in the name of the nominee. Apart from this, this Court had already granted probate on 05/05/2021 and despite thereof, the Society has obstructed the Applicant from exercising rights in respect of the subject flat. In the absence of any orders passed in any Civil Court, it was not open for the Society to decline to transfer the flat in the name of beneficiary/ nominee.

4. The Application deserves to be allowed and the same is allowed in terms of prayer clause (a).
5. The Respondent-Society is directed to transfer the subject flat in the name of the deceased as per the probate granted on 05/05/2021.
6. The Interim Application stands disposed of.

[SHARMILA U. DESHMUKH, J.]