

Sayali

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

WRIT PETITION NO.3886 OF 2024

Anusaya Ravindra Keni

... Petitioner

V/s.

District Deputy Registrar and Others

... Respondents

**SAYALI
DEEPAK
UPASANI**

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Mr. Suraj S. Vishwakarma, for Petitioner.

Mrs. Ashwini Purav, AGP for State-Respondent nos. 1
and 13.

CORAM : AMIT BORKAR, J.

DATED : APRIL 07, 2026

P.C.:

1. The co-owner has approached this Court by filing the present petition. The challenge is to an order passed by the Competent Authority while exercising powers under Section 11 of the MOFA Act. The petitioner has raised grievances which are mainly about the extent and scope of the impugned order. According to the petitioner, the authority has gone beyond what was permissible and has granted rights or area which, as per the petitioner, could not have been legally granted. It is the case of the petitioner that such determination has affected his proprietary interest. At the same time, it is required to be noted that the order is passed in proceedings which are summary in nature. The Court therefore has to see not only what is alleged, but also what is the nature of the power exercised by the authority. If the grievance touches deeper questions of ownership, then the forum also becomes relevant.

2. The Division Benches of this Court, in *Shimmering Heights Co-operative Housing Society Ltd. & Ors. v. State of Maharashtra & Ors.* (Writ Petition No. 3129 of 2016, decided on 6 April 2016), have underscored that proceedings for deemed conveyance are not intended to adjudicate complicated questions of title. Similarly, in *Zainul Abedin Yusufali Massawawala & Ors. v. Competent Authority, District Deputy Registrar of Co-operative Housing Societies, Mumbai & Ors.*, 2016 SCC OnLine Bom 6028, it has been reiterated that the Competent Authority exercises limited jurisdiction and cannot determine rival ownership claims. In *PR. Enterprises & Anr. v. Competent Authority & Anr.* (Writ Petition No. 1125 of 2016, decided on 27 November 2018), this Court has held that disputes pertaining to contractual entitlement or proprietary rights must be agitated before the Civil Court. 4. The consistent view of the Division Benches of this Court is that, in a petition filed by the owner alleging conferment of excess area, such disputes, involving questions of title and proprietary rights, cannot be adjudicated in proceedings under Article 226 of the Constitution of India. The appropriate remedy for the Petitioner is to institute a civil suit. In view thereof, the Petitioner deserves to be relegated to the remedy of a civil suit.

3. When the present petition is examined in light of these principles, it becomes clear that the grievance raised by the petitioner is essentially about conferment of excess area and the resulting impact on ownership rights. This directly concerns title and proprietary entitlement. Determination of such issue would require detailed examination of documents, intentions of parties,

and possibly oral evidence. This Court, while exercising jurisdiction under Article 226 of the Constitution, does not undertake such an exercise. The writ jurisdiction is not meant for deciding disputed questions of title. Therefore, even if the petitioner feels aggrieved, the remedy cannot lie in invoking writ jurisdiction for adjudication of such disputes. The proper course is to approach the Civil Court, where all issues can be fully examined.

4. In view of the settled position of law, this Court is of the opinion that the petitioner cannot be granted relief in the present proceedings. However, it is necessary to clarify that this Court has not examined the merits of the rival claims. All questions raised in the petition are kept open. The petitioner is at liberty to agitate the same before the competent Civil Court in accordance with law.

5. Accordingly, the petition stands disposed of with liberty as stated above.

(AMIT BORKAR, J.)