

Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SAYALI
DEEPAK
UPASANI

WRIT PETITION NO.15363 2024

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Priya Jayanand Parab and Others ... Petitioners
V/s.
Divisional Joint Registrar, Co-operative
Societies, Kokan Div. Belapur and Others ... Respondents

Mr. Sachin V. Dere with Mrs. Sarika Sachin Dere and
Mr Akshay Arun Pawar, for Petitioners.

Mr. Ketan Joshi, B Panel with Ms. Mamta S.
Srivastava, AGP for State.

Mr. Yuvraj Narvankar with Mr. Ashish Jagiasi and
Minal Chandnani, for Respondent No. 4.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 19, 2026

P.C.:

1. This petition challenges proceedings under Section 23(2) of the Maharashtra Cooperative Housing Societies Act, 1960. The facts are simple. One Manohar Mahadev Jadhav was a member of the housing society in respect of Flat No. 12. He died on 23 January 1997. He left behind his wife, three sons and three daughters. The society transferred the shares in the name of his wife Vibhavari Manohar Jadhav on 31 May 1997 because she was the nominee. On 24 April 2015, Vibhavari allegedly executed a registered will. She gave Flat No. 12 to her son Anil. She died on

25 May 2016.

2. On 20 October 2021, respondent No. 4 applied for transfer of membership in his name based on the registered will. The society rejected this request on 16 November 2022. The Registrar then directed the society to give membership to respondent No. 4 under Section 23(2) of the Act. The impugned order confirms that decision. The petitioner has therefore approached this Court.

3. The petitioner submits that Manohar died leaving his wife and six children. The petitioner further submits that exclusive membership could not be granted to respondent No. 4 only on the basis of a registered will executed by the widow.

4. The material on record shows that respondent No. 4 cannot claim exclusive ownership of the flat because the will was not executed by the father but only by the mother. Exclusive title can arise only after proper adjudication of succession rights. At the same time, the evidence shows that the society needs a member on record to recover dues and to carry out administration. For this limited purpose, the society can enter the name of respondent No. 4 as member. This does not settle ownership rights. The petitioner and other legal heirs are entitled to associate membership in accordance with law.

5. The parties have already filed Special Civil Suit No. 556 of 2023 for partition of the flat. That suit also questions the validity of the will. The conferment of membership on respondent No. 4 will remain subject to the final outcome of that suit. The Civil

Court will decide rights and shares after considering the evidence.

6. The legal heirs of Manohar may apply for associate membership as permitted by the Act and the bye-laws. If they file such an application, the society must process it. The society must hear respondent No. 4 before taking a decision. After hearing both sides, the society must enter their names as associate members of Flat No. 12 if they are found eligible.

7. With this clarification, the present petition stands disposed of.

(AMIT BORKAR, J.)