

Sayali

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

**SAYALI
DEEPAK
UPASANI**

WRIT PETITION NO. 4374 OF 2024

Samadhan Apartment B CHSL

... petitioner

V/s.

The State of Maharashtra and Others

... Respondents

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Mr. Aditya P. Kharkar, for petitioner.

Mr. Deepak Kushwaha, for Respondent no. 2.

Dr. Dhruti Kapadia, AGP for State-Respondent no. 1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 23, 2026

P.C.:

1. This petition under Article 226 of the Constitution of India takes exception to the order passed by the Competent Authority under Section 11 of the Maharashtra Ownership of Flats Act, 1963, whereby deemed conveyance in respect of land bearing Survey No. 20-A, Hissa No. 8, Mouje Virar, Taluka Vasai, District Palghar, admeasuring 810 sq. mtrs, has been granted in favour of Respondent No. 2 society. The petitioner, a cooperative housing society registered on 27.07.1992, challenges the legality and correctness of the said order on the ground that a portion of the land claimed and conveyed forms part of the area allegedly in its longstanding possession, and contends that the Competent

Authority has acted contrary to the statutory scheme and the applicable Government Resolution governing cases of multiple societies on a single plot.

2. The petitioner contends that it is a duly registered cooperative housing society bearing Registration No. TNA (VSI) / HSG (TC) / 4948 dated 27.07.1992. It is submitted that the petitioner society has been in occupation and existence on the land described in the cause title since the early 1980s. The land in dispute is identified as Survey No. 20-A, Hissa No. 8, Mouje Virar, Taluka Vasai, District Palghar, admeasuring in all 810 sq. mtrs.

3. The petitioner further submits that construction of its building was completed in the year 1984, pursuant to which the flats were sold, and thereafter the petitioner society came to be registered in the year 1992. It is stated that the building of the petitioner stands on an area admeasuring 290 sq. mtrs, together with adjoining vacant space, a vertical water tank and a pump room, aggregating to 290 sq. mtrs, which area is stated to be in the actual and physical possession of the petitioner society. In support of the said contention, reliance is placed upon a physical survey sheet annexed to the petition.

4. The petitioner submits that in December 2022, Respondent No. 2 society preferred an application seeking deemed conveyance in respect of the said land. By the said application, Respondent No. 2 claimed entitlement over land admeasuring

674 sq. mtrs out of the total area of 810 sq. mtrs. According to the petitioner, the said application sought to project before Respondent No. 1, the Competent Authority, that the construction of the petitioner society is unauthorized and illegal.

5. Learned counsel appearing for the petitioner submits that the Competent Authority failed to consider that the petitioner society has existed on the said land since the year 1984, whereas the respondent original applicant society came to be constituted only in the year 2007. It is contended that despite this material circumstance, the area allegedly belonging to the petitioner society has been granted in favour of Respondent No. 2.

6. Learned counsel for the petitioner further submits that the Competent Authority failed to apply the Government Resolution dated 22.06.2018, which prescribes the procedure to be followed where multiple cooperative societies exist on a single plot. It is urged that the procedure contemplated under Section 11 of the Maharashtra Ownership of Flats Act, 1963 has not been followed, and therefore interference of this Court is warranted.

7. It is further submitted that the Competent Authority has misread and misapplied the provisions of Section 11 of the MOFA Act. According to the petitioner, despite detailed submissions having been made, the claim of the petitioner society came to be rejected summarily and without recording cogent reasons. The impugned action of the Registrar is alleged to be contrary to the provisions of MOFA, vitiated by non application of mind, and

consequently illegal and unsustainable.

8. Per contra, learned counsel appearing for Respondent No. 2 society submits that the sanctioned plan reflects a built up area of 674.37 sq. mtrs in respect of Respondent No. 2 society and, therefore, in terms of the Government Resolution dated 22.06.2018, Respondent No. 2 is entitled to proportionate area corresponding to its built up portion. Reliance is placed upon the architect's certificate produced before the Competent Authority, indicating the built up area as 674.47 sq. mtrs. It is, therefore, submitted that the Competent Authority has lawfully exercised its jurisdiction and that the petition deserves to be dismissed.

Analysis and reasons:

9. Having considered the rival submissions, this Court finds that the central issue is not merely the existence of the petitioner society or the length of its occupation. The real question is whether the Competent Authority has correctly applied the governing legal framework while determining entitlement to deemed conveyance. Section 11 of MOFA empowers the Competent Authority to grant deemed conveyance on the basis of material available, including sanctioned plans and documentary records. The Government Resolution dated 22.06.2018 has been issued precisely to address situations where more than one society exists on the same larger parcel of land. The guiding principle under the Resolution is allocation of proportionate area corresponding to the sanctioned built up area.

10. In the present case, the sanctioned plan, which is an official and binding document, records the built up area of Respondent No. 2 society as 674.37 sq. mtrs. This figure is further supported by the architect's certificate produced before the authority. The petitioner has not placed any sanctioned plan or official document demonstrating that the built up area attributable to Respondent No. 2 is incorrect or inflated. Mere reliance on physical possession or long standing occupation cannot override the sanctioned development record, especially when the statutory process of deemed conveyance proceeds on documentary and planning approvals. The Competent Authority was therefore justified in treating the sanctioned plan as the primary basis for determination.

11. The argument of the petitioner that it existed since 1984 while Respondent No. 2 was formed in 2007 also does not alter the legal position. Registration dates of societies may show chronology, but entitlement under the Government Resolution depends on sanctioned built up area and not on comparative age of societies. The authority was required to apply an objective standard. The record shows that it has done so by relying on sanctioned plans and certified measurements. Once the proportionate area corresponding to the built up portion of Respondent No. 2 is established, the authority cannot be faulted for granting conveyance accordingly.

12. The contention that the petitioner's submissions were ignored is also not borne out from the material. The impugned order indicates that objections were considered, but the authority found that the sanctioned plan supported the claim of Respondent No. 2. The mere fact that the decision went against the petitioner does not mean that there was non application of mind. Judicial review in such matters is limited. This Court does not sit as an appellate authority to reassess measurements or substitute its own calculation when the competent statutory authority has acted on relevant material.

13. It is also important to note that the deemed conveyance proceedings are intended to regularize transfer of title in accordance with sanctioned development. They are not proceedings for adjudication of disputed title or complex possession claims between rival entities. If the petitioner has any independent civil rights based on possession or any other legal claim, the law provides appropriate remedies before a competent forum. However, that aspect does not render the impugned order illegal within the limited scope of examination under Article 226.

14. In view of the above discussion, this Court finds that the Competent Authority has correctly relied upon the sanctioned plan reflecting a built up area of 674.37 sq. mtrs in respect of Respondent No. 2 society and has applied the Government Resolution dated 22.06.2018 in its proper perspective. The grant of proportionate area corresponding to the built up portion of

Respondent No. 2 cannot be said to be arbitrary, illegal or contrary to law. No jurisdictional error or perversity is demonstrated which would justify interference in writ jurisdiction.

15. The writ petition, therefore, fails and is dismissed. No order as to costs.

(AMIT BORKAR, J.)