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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9015 OF 2024
WITH
WRIT PETITION NO.9021 OF 2024

Deccan Paper Mills Limited … Petitioner

V/s.

Competent Authority and District Deputy Registrar & Others … Respondents

ATUL GANESH KULKARNI
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Date: 2026.02.24 19:21:05 +0530

Ms. Meena H. Doshi for the petitioner.

Ms. Aloka A. Nadkarni, AGP for respondent No.1-State.

Mr. Prajakt Arjunwadkar with Mr. J.B. Gharat, Mr. Omkar Shinde, and Mr. P.S. Hande for respondent No.2.

Mr. Manoj Gadkari for respondent No.4.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 24, 2026

P.C.:

1. By the present writ petitions filed under Article 226 of the Constitution of India, the petitioner challenges the order dated 24 April 2024 and the certificate dated 24 April 2024 issued by Respondent No.1 in exercise of powers under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (MOFA).

2. The brief facts, as pleaded by the petitioner, are that the petitioner is the owner of land admeasuring 72,186 square metres

bearing Survey Nos. 96B, 96C and 96D situated at Village Mundhwa, District Pune. The petitioner entered into an agreement dated 5 October 2004 with RSL in respect of land admeasuring 17,791.64 square metres out of 31,572.71 square metres forming part of Survey No. 96-B (part) and 96-D (part). Thereafter, another agreement dated 12 December 2004 came to be executed between the petitioner and RSL Limited in favour of Respondent No.3 for development of 11,589 square metres out of the said area of 31,572.71 square metres. A third agreement dated 9 May 2006 was subsequently executed with M/s. Sunrise Developers for development of land admeasuring 10,750 square metres out of the same larger parcel.

3. Pursuant to the aforesaid agreements, Respondent No.3 was required to undertake construction on land admeasuring 18,639.35 square metres situated on Plot 2C, whereas M/s. Sunrise Builders was required to carry out construction on land admeasuring 10,750 square metres situated on Plot 2A. Respondent No.3 constructed five buildings bearing Nos. A to F in accordance with the sanctioned layout of the year 2003. Respondent No.2 society came to be registered on 19 November 2010.

4. In pursuance of the agreement dated 9 May 2006 executed with M/s. Sunrise Builders, two buildings were constructed and completed in the year 2010. The purchasers of flats therein formed Venkatesh Flora Phase-2 Housing Society, which was registered in the year 2013. Subsequently, by another agreement dated 7 September 2007 executed between the petitioner and RSL, M/s.

Vision Developers were granted development rights in respect of an area admeasuring 8,659.25 square metres together with FSI admeasuring 3,187.80 square metres on Plot 2C.

5. By a Deed of Completion dated 22 August 2013 executed between the petitioner, RSL and Respondent No.3, it was recorded that, in terms of the agreement dated 5 October 2004, plot area admeasuring 5,130 square metres and FSI admeasuring 10,998.01 square metres had been utilised and developed. It was further recorded that the said agreements stood discharged and that the balance area admeasuring 4,850.39 square metres out of the total area of 9,980.39 square metres was surrendered to the petitioner.

6. The petitioner has instituted Civil Suit No. 1829 of 2019 before the Civil Judge, Senior Division, Pune against Respondent Nos.2 and 3 and M/s. Sunrise Builders seeking a decree of perpetual injunction. The said suit is stated to be pending adjudication.

7. On 14 January 2022, Respondent No.2 society filed an application seeking deemed conveyance under Section 11 of MOFA, annexing thereto an Architect's Certificate dated 7 January 2022. The petitioner filed its reply and written submissions raising various contentions, including reliance upon the last sanctioned plan dated 8 October 2021, which, according to the petitioner, was material for determining the area liable to be conveyed. By the impugned order, the Competent Authority directed conferment of deemed conveyance in favour of Respondent No.2 in respect of land admeasuring 13,026.77 square metres and built-up area

admeasuring 11,873.029 square metres. Aggrieved thereby, the petitioner has preferred the present writ petition.

8. Ms. Doshi, learned Advocate appearing for the petitioner, relying upon the Government Resolution dated 22 June 2018, submitted that the petitioner is willing to execute conveyance in favour of Respondent No.2 society to the extent of land situated beneath its building in accordance with the said Government Resolution. She submitted that out of the total land admeasuring 29,389.64 square metres assigned for development, an area admeasuring 10,750 square metres was allotted, with the consent of Respondent No.3, to M/s. Sunrise Builders. Consequently, the balance area available with Respondent No.3 for development was 18,639.64 square metres. She further submitted that the area on which five buildings were constructed by M/s. Vision Developers measured 5,130 square metres and that Respondent No.3 had surrendered an area admeasuring 4,850.39 square metres to the petitioner. It was also contended that M/s. Vision Developers constructed bungalows on land admeasuring 3,284.61 square metres by utilising FSI of 2,652.18 square metres and, by a Deed of Cancellation dated 22 August 2013, surrendered an additional area admeasuring 5,347.64 square metres to the petitioner.

9. Learned counsel further submitted that Respondent No.1 committed an error in concluding that the sanctioned layout dated 8 October 2021 was tentative on the ground that environmental clearance for part of the proposed construction was pending. According to her, a perusal of the sanctioned plan would demonstrate that the construction undertaken by Respondent No.2

and M/s. Vision Developers on Plot Nos. 2B and 2C (part), as well as the construction by M/s. Sunrise Builders on Plot No. 2A, left substantial portions unaffected, and that the layout plan of 2021 was consistent with the earlier sanctioned layout dated 30 January 2015. She submitted that, if the constructed area, the balance proposed construction area, and the permissible FSI reflected in the sanctioned plan of 2021 are properly considered, an area admeasuring 13,026.77 square metres would not be available for conveyance in favour of Respondent No.2 society. In support of this submission, reliance was placed on the judgment of the Division Bench of this Court in *Chandan Gagan Thakur vs. District Deputy Registrar, CS (II) and Others, Writ Petition No.1119 of 2018 decided on 30 September 2019*, wherein the order of the Competent Authority was set aside to the extent it specified the area to be conveyed, leaving it open to the parties to seek determination of the correct area before the Civil Court.

10. Relying upon the judgment of this Court in *Marathon Era Cooperative Housing Society Limited vs. The Competent Authority and District Deputy Registrar, CS and Others, Writ Petition No.180 of 2018 decided on 18 April 2024*, learned counsel submitted that a Coordinate Bench has held that the Competent Authority is required to take into consideration the Government Resolution dated 22 June 2018 while deciding applications for deemed conveyance. On this basis, it was submitted that the impugned order is liable to be quashed and set aside.

11. Per contra, Mr. Arjunwadkar, learned Advocate appearing for Respondent No.2 society, supported the impugned order and

submitted that the grievance raised by the petitioner essentially pertains to disputes between the land owner and the developer, for which the appropriate remedy lies before the Civil Court. He submitted that the core contention of the petitioner relates to the allegation of excess area being granted in favour of Respondent No.2, which, according to settled law, cannot be adjudicated in writ jurisdiction. It was contended that Division Benches and Single Benches of this Court have consistently held that disputes concerning excess area or entitlement thereto must be resolved through civil proceedings and that writ petitions in such matters are not maintainable. In support of this submission, reliance was placed on the decisions in *Shimmering Heights CHSL and others vs. State of Maharashtra (Writ Petition No.3129 of 2016 decided on 6 April 2016), P.R. Enterprises and others vs. Competent Authority (Writ Petition No.11251 of 2016 decided on 27 November 2018), Mehboob Ali Humza and others vs. District Sub Registrar (3), Mumbai and others (Writ Petition No.3129 of 2016 decided on 24 June 2016), and Zainul Abedin Yusufali Massawalla and others vs. Competent Authority, 2016 SCC OnLine Bom 6028*.

12. He further submitted that the layout plan dated 8 April 2015 constitutes the final sanctioned plan approved by the Municipal Corporation, and that, as per the built-up area and area statement reflected therein, Respondent No.2 society is entitled to an area admeasuring 13,206.77 square metres in terms of the Government Resolution dated 22 June 2018. It was submitted that although the Architect's Certificate produced before the Competent Authority claimed entitlement to a total area of 14,693.57 square metres, the

Competent Authority, upon consideration of the approved plan, restricted the entitlement of Respondent No.2 to 13,026.77 square metres. He further pointed out that the petitioner has already instituted Civil Suit No.1829 of 2019 against the developer, which is pending, and that all grievances raised in the present writ petition can be agitated in the said civil proceedings. On these grounds, he prayed for dismissal of the writ petition.

13. Having considered the pleadings, the documents placed on record, and the submissions advanced on behalf of all parties, the central issue which arises for determination is whether the order passed by the Competent Authority under Section 11 of MOFA warrants interference in exercise of writ jurisdiction under Article 226 of the Constitution of India. The challenge raised by the petitioner is essentially directed against the extent of area conveyed in favour of Respondent No.2 society and the manner in which the Competent Authority has assessed such entitlement.

14. The Court finds that the controversy, when stripped of details, turns on the nature of jurisdiction exercised by the Competent Authority under Section 11 of MOFA and the extent to which this Court can re-examine factual determinations made therein. Proceedings for deemed conveyance are intended to facilitate transfer of title in favour of a co-operative society where the promoter fails to execute conveyance. The Competent Authority examines documents placed before it to ascertain whether the society is entitled to conveyance and, if so, to what extent. However, such proceedings are summary in nature. They are not intended to adjudicate complicated questions of title, nor

do they finally determine inter se proprietary rights between land owners, developers, and third parties.

15. The legal position on this issue now stands settled and does not require any further debate. In the case of *Zainul Abedin Yusufali Massawawala and Others*, a similar dispute had arisen before the Division Bench. In that matter also, the land owner contended that the Competent Authority had granted deemed conveyance of an area larger than what could lawfully be conveyed, and that the promoter himself did not possess rights over the entire property sought to be conveyed. The Division Bench examined the nature and scope of proceedings under Section 11 of MOFA and clarified that such proceedings are limited in character. The Court held that when the dispute relates to the extent of title, the precise area liable to be conveyed, or the promoter's actual entitlement under the agreements, those issues necessarily involve adjudication of rights and evidence. Such adjudication cannot be undertaken in writ jurisdiction. The proper remedy, therefore, lies in a substantive civil suit where parties can lead evidence and seek determination of their respective rights.

16. The underlying reasoning is straightforward and rests on the nature of deemed conveyance itself. An order granting deemed conveyance does not create or enlarge title. It only facilitates transfer of whatever right, title, or interest the promoter already possesses. Therefore, if the owner disputes the extent of the promoter's title, or contends that the society is claiming land beyond what was agreed or lawfully available, that dispute is essentially civil in nature. It requires examination of agreements,

sanctioned plans, title documents, and factual material, which can only be properly assessed in a civil trial. The writ court does not function as a court of evidence or as a trial forum for resolving such factual controversies. This principle has been repeatedly affirmed by this Court. Subsequent Division Bench decisions, including *Shimmering Heights CHSL and others vs. State of Maharashtra, P.R. Enterprises and others vs. Competent Authority, and Mehboob Ali Humza and others vs. District Sub Registrar (3), Mumbai and others*, have consistently followed the same approach and have declined to entertain writ petitions where the dispute essentially concerns extent of land or title.

17. Applying the above legal position to the present case, it becomes clear that the entire grievance of the petitioner revolves around calculation of area, interpretation of development agreements, effect of surrender deeds, and reconciliation of various sanctioned plans. These are not issues capable of being conclusively decided on affidavit evidence in writ proceedings. Determination of such questions would require examination of original agreements, scrutiny of development rights granted at different stages, assessment of utilisation of FSI, and evaluation of competing claims regarding surrender and retention of land. Such an exercise is squarely within the domain of the Civil Court.

18. The contention of the petitioner that the Competent Authority misread the sanctioned layout or failed to correctly apply the Government Resolution may, at the highest, indicate a dispute regarding correctness of factual conclusions. That by itself does not justify interference under Article 226 when an efficacious civil

remedy is available and when the dispute concerns extent of title and entitlement. It is significant that the petitioner has already instituted Civil Suit No.1829 of 2019 against the developer. The issues sought to be raised in the present writ petition can very well be agitated and adjudicated in those proceedings, where the Civil Court can record evidence and render findings binding on all concerned parties.

19. The Court also notes that the order of deemed conveyance does not extinguish the petitioner's rights, if any, nor does it prevent the petitioner from establishing before the Civil Court that any portion of land has been wrongly conveyed. The rights of parties remain subject to adjudication in appropriate civil proceedings. Therefore, interference in writ jurisdiction at this stage would not only be unnecessary but would also run contrary to the consistent judicial approach adopted in similar matters.

20. In view of the settled legal position and the nature of the dispute involved, this Court is of the considered opinion that the writ petition cannot be entertained. The controversy raised by the petitioner pertains to disputed questions of title and extent of land, which must be adjudicated by the competent Civil Court. No case is made out for exercise of extraordinary jurisdiction under Article 226 of the Constitution.

21. The ad-interim relief granted by this Court shall continue to operate for a period of four weeks from today. It is clarified that continuation of the said ad-interim relief shall not be construed as any expression of opinion on the merits of the case by this Court.

22. Both the writ petition are accordingly dismissed.

23. It is clarified that all contentions of the parties on merits are kept open and may be agitated before the Civil Court in pending or independent proceedings, which shall decide the same on their own merits and in accordance with law.

(AMIT BORKAR, J.)