

Shabnoor

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

WRIT PETITION NO.16401 OF 2024

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Jeanette Gordan Rodrigues & Ors. ... Petitioners
V/s.
Competent Authority &
District Deputy Registrar,
Cooperative Societies, Thane & Ors. ... Respondents

Mr. R. S. Datar a/w Ms. Dhruti Datar, for the
Petitioners.

Mr. Haresh Pawar a/w Ms. Anita B. Phanse, for
Respondent No.2.

Ms. V. S. Nimbalkar, AGP, for the State – Respondent
No.1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 16, 2026

P.C.:

1. The present petition impugns the order dated 18 February 2021 passed by the Competent Authority whereby an area admeasuring 1500 square meters came to be allotted in favour of Respondent No. 2.

2. The petitioners, being the owners, assail the said order by relying upon the order of this Court dated 9 July 2019 passed in Writ Petition No. 3135 of 2018 concerning the same subject matter and substantially the same parties. In the said proceedings, a statement was recorded on behalf of Respondent No. 2 that the society was willing to accept a lesser area, namely 1500 square

yards instead of 1500 square meters. According to the petitioners, despite making such concession before this Court, Respondent No. 2 failed to disclose the same before the Competent Authority. It is further alleged that the impugned order was passed without proper service of notice upon the petitioners and therefore suffers from breach of principles of natural justice.

3. Learned counsel for Respondent No. 2, on the other hand, submitted that the petitioners were duly notified by public notice. It was contended that the advocate appearing in the earlier writ petition had no instructions to make the statement attributed to Respondent No. 2. Reliance was placed upon paragraphs 2 and 3 of the earlier order to contend that the Competent Authority was required to adjudicate the claim independently on its own merits and was therefore competent to determine the entitlement of the parties. On this basis it was urged that grant of 1500 square meters was within jurisdiction. It was additionally submitted that interference is unwarranted in view of the fact that conveyance has already been registered and corresponding mutation entries have been effected in the revenue record.

4. After hearing both sides at length, it becomes necessary to closely look at paragraphs 2 and 3 of the earlier order of this Court. Those paragraphs show the exact background in which the matter was sent back to the Competent Authority. In the earlier proceedings, the Society itself made a statement before this Court, through its advocate, that it was willing to accept a smaller extent of land. The Society did not insist upon 1500 square meters. It agreed to restrict its claim to 1500 square yards. The Court noted

that, at that stage, there was no sufficient material on record to finally decide the entitlement. Because of this, and because supervisory jurisdiction under Article 227 is limited, the Court directed that the dispute should first be examined by the Competent Authority. The earlier order therefore did not grant any right to the Society. Instead, it required the Society to prove its entitlement before the statutory authority and that too in light of the statement made before the Court.

5. When paragraphs 2 and 3 are read together, their meaning becomes clear. The Court did not send the matter back in a general manner. The remand was linked to the statement of the Society that it was ready to accept only 1500 square yards. That statement formed the basis of the remand. The Society was therefore permitted to establish its claim only within the limits of that concession. The direction was not open ended. The Society could not thereafter claim a larger area inconsistent with what was stated before the Court.

6. Paragraph 3 of the earlier order further records that the Competent Authority shall decide the proposal on its own merits. This expression cannot be read in isolation. It must be read along with the recorded statement. The authority had to examine whether the Society was entitled to 1500 square yards. The authority was not permitted to reopen the entire question of area and grant a larger extent. The enquiry was therefore restricted. The authority had jurisdiction to either grant or refuse 1500 square yards. It had no jurisdiction to grant 1500 square meters once the Society itself limited its claim before the Court and

obtained a remand on that basis.

7. In other words, the real question before the authority was simple. The authority had to determine whether the Society proved entitlement to 1500 square yards. Instead, the authority granted 1500 square meters, which is substantially more than what the Society agreed to accept. Such exercise travels beyond the scope of the remand order. An authority acting on remand cannot enlarge the claim. It must remain within the boundaries fixed by the Court. Therefore, the submissions advanced on behalf of Respondent No. 2 cannot be accepted and the impugned order cannot be sustained.

8. Accordingly, the following order is passed.

(i) The impugned order dated 18 February 2021 and the consequential sale deed are quashed and set aside.

(ii) The proceedings are remitted to the District Deputy Registrar of Cooperative Societies, Thane, for determining only the entitlement to 1500 square yards after granting hearing to all concerned parties.

(iii) The parties shall appear before the Authority on 26 February 2026 at 11.00 a.m.

(iv) The Competent Authority shall decide the issue of entitlement within eight weeks from the date of appearance of the parties.

(v) All contentions of both sides are kept open.

(vi) Both parties are permitted to place additional

documents before the Competent Authority.

9. The writ petition is accordingly disposed of.
10. There shall be no order as to costs.

(AMIT BORKAR, J.)