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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1386 OF 2026

Virendra Jairam Jadhav & Ors. ... Petitioner
V/s.
Kalpesh Cooperative Housing
Society Limited & Others ... Respondents

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Mr. Arvind S. Bhandare for the petitioner.

Mr. Sudarshan P. Bhilare for respondent Nos.1 and 8.

CORAM : AMIT BORKAR, J.

DATED : APRIL 28, 2026

PC.:

1. The present writ petition is filed by certain co-owners raising grievance which is mainly two-fold in nature. First is that there is breach of principles of natural justice, meaning thereby they say they were not properly heard or given fair opportunity before passing of impugned order. Second is that the foundation document, namely development agreement and power of attorney, is not genuine, as according to them signatures are not theirs and also agreed consideration is not received by them. These allegations are serious in nature, because if forgery is established then entire transaction becomes doubtful in law. However, at same time, such allegations cannot be decided merely on statement or affidavit, because it requires proper proof. The petitioners are

asserting absence of consent and absence of payment, which goes to root of transaction, but such assertions need detailed examination of facts and evidence. Therefore, while the grievance appears substantial at first look, the manner of its proof becomes very relevant for deciding appropriate forum.

2. In so far as issue of forgery is concerned, this Court finds that such dispute involves complicated questions of fact. Whether signatures are forged or genuine cannot be decided on basis of record available before Competent Authority or even in writ jurisdiction. It requires comparison of signatures, examination of witnesses, and opportunity of cross examination. Such exercise can be properly undertaken only in a substantive civil suit. The Competent Authority does not have machinery or jurisdiction to record oral evidence in detailed manner or to adjudicate upon disputed questions of title and authenticity of documents. Therefore, even if petitioners are asserting that documents are fabricated, such contention cannot be conclusively decided in present proceedings. It becomes necessary for petitioners to approach Civil Court where full trial can take place. Only after such adjudication, the rights of parties can be finally determined.

3. On the aspect of breach of principles of natural justice, it is seen that Competent Authority has recorded finding that petitioners were served. Though petitioners dispute this, the record indicates that other co-owners were duly served and had participated in proceedings. In matters relating to co-owned property, representation of estate by some co-owners can be considered sufficient, unless clear prejudice is shown. It is not

demonstrated that entire proceeding is vitiated merely because some co-owners allege non service, especially when others were before authority. Further, the order passed by Competent Authority is not final adjudication of civil rights. It is subject to outcome of proceedings before Civil Court. Therefore, even if there is some irregularity in service, such defect does not cause irreparable prejudice, as petitioners still have remedy to establish their rights independently. Thus, the element of prejudice, which is necessary to sustain plea of natural justice violation, is not fully established in present case.

4. 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 *P.R. 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.

5. The scheme of law is to ensure that flat purchasers are not kept waiting endlessly for conveyance. If every objection regarding title or area is allowed to be fully tried in such proceedings, then

object of law will fail. Further, it is also stated in previous decisions that Competent Authority has limited jurisdiction. It cannot decide rival claims of ownership between parties. If two persons are saying that same property belongs to them, such issue needs full trial. Also, disputes relating to contractual rights or proprietary interest must go before Civil Court, because Civil Court is having complete power to record evidence, frame issues, and give final findings binding on parties.

6. The Division Benches have also consistently taken view that when owner comes before writ court saying that excess area is wrongly given, such dispute essentially involves question of title or extent of property. They may involve interpretation of agreements, plans, development rights, and sometimes historical records. Such matters cannot be satisfactorily gone into under Article 226, because writ jurisdiction is mainly for examining legality of decision-making process and not for resolving disputed facts in detail.

7. In that view of matter, it becomes necessary to send petitioners to proper remedy. If this Court entertains such disputes in writ jurisdiction, it may lead to incomplete adjudication and possible injustice. Hence, relegation to civil suit becomes appropriate course.

8. Hence, the following order is passed:

- (i) The Writ Petition stands disposed of with liberty to the petitioners to approach the competent Civil Court;

(ii) All contentions of the parties are expressly kept open to be urged in such proceedings;

(AMIT BORKAR, J.)