

MPBalekar

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

WRIT PETITION NO. 3433 OF 2026

Gaurav Dhroov Co-operative Housing
Society Ltd. ... Petitioner

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Prasad S. Dani, Senior Advocate, a/w Gulabsingh
S. Yadav and Neel G. for the petitioner.

Mr. A.C. Bhadang, AGP, for the State.

Mr. Amod Ekhaspur, for respondent No.3.

CORAM : AMIT BORKAR, J.

DATED : MAY 4, 2026

P.C.:

1. **Rule.** Rule is made returnable forthwith.
2. Challenge in present writ petition is raised by the petitioner, who is already having some benefit from earlier litigation, and that earlier litigation had travelled up to the Hon'ble Supreme Court under the provisions of the Consumer Protection Act, 2019. In that earlier proceeding, direction was given that entire plot of land should be conveyed in favour of the petitioner. This fact is not much in dispute between parties. However, now difficulty is arising because by impugned order dated 29 August 2025, the Competent Authority has taken different view and directed that deemed conveyance be granted in favour of respondent No.3 Society. This creates situation where two parallel rights are claimed over same

property. It becomes necessary for this Court to see whether such second order could stand when earlier adjudication has already reached finality at highest level. The petitioner therefore approaches this Court saying that once entire plot was already directed to be conveyed, nothing further survives for consideration before the Competent Authority.

3. The principal contention of petitioner is in two parts, and both parts are connected with each other. Firstly, it is submitted that in earlier round under provisions of the Maharashtra Ownership Flats Act, 1963, application under Section 11 was already rejected on reasoning that there cannot be two conveyances in respect of same property. This finding was on merits and after considering legal position. Secondly, it is urged that in separate proceedings under the Consumer Protection Act, the competent forum, and thereafter higher courts up to Supreme Court, have directed conveyance of entire plot admeasuring 11374.90 square meters. Because of this entire title already stands transferred, and no portion remains available for fresh conferment of deemed conveyance. Thus, according to petitioner, both on ground of final adjudication and also on ground of impossibility of second conveyance, the impugned order cannot be sustained.

4. On the other side, learned Advocate appearing for respondent No.3 has attempted to meet this position by raising plea that earlier order obtained by petitioner was result of fraud. It is submitted that if fraud is involved, then such order becomes nullity and can be ignored even by authority exercising limited jurisdiction. This submission is made to overcome binding nature

of earlier proceedings. It is further contended that order dated 16 November 2016 passed in earlier round was itself contrary to law, and therefore, subsequent application seeking similar relief cannot be said to be barred. According to respondent No.3, when earlier decision is illegal or obtained improperly, doctrine of finality should not apply strictly.

5. After considering rival submissions, this Court finds that impugned order suffers from legal infirmity. The first aspect which cannot be ignored is that earlier round of litigation has resulted in direction for conveyance of entire plot, and it is also on record that sale deed has already been executed. This means title has already passed in favour of petitioner. Once such title is created and recognised, it continues to operate unless it is set aside in appropriate proceedings. The Competent Authority exercising summary powers under Section 11 cannot disregard such concluded transaction.

6. The second aspect is relating to bar of repeated proceedings. Earlier application under same provision was rejected with categorical finding that two conveyances cannot be granted for same property. This finding has attained finality. In light of law laid down in *Faime Makers Private Limited Vs. District Deputy Registrar, Co-operative Societies (3), Mumbai and Others*, reported in 2025 (5) SCC 772, principle of res judicata applies even to proceedings under Section 11 of the said Act. Therefore, once issue is already decided, second application seeking same relief becomes impermissible.

7. The submission regarding fraud cannot be accepted in absence of specific pleading and proof. Till such time earlier order is set aside by competent court, it continues to bind parties as well as authorities. The Competent Authority could not have assumed power to indirectly nullify effect of such order. In view of these reasons, both grounds raised by petitioner are found to have substance. The impugned order dated 29 August 2025 is therefore not sustainable in law. It is liable to be quashed and set aside.

8. Accordingly, rule is made absolute in terms of prayer clause (a).

9. The writ petition stands disposed of.

(AMIT BORKAR, J.)