

Shabnoor

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

WRIT PETITION NO.10226 OF 2025

**SHABNOOR
AYUB
PATHAN**

**Vijay Shree Cooperative Housing
Society Ltd.**

... Petitioner

V/s.

**The District Deputy Registrar,
of the Cooperative Societies,
Competent Authority, Pune & Ors.**

... Respondents

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SHABNOOR AYUB
PATHAN
Date: 2026.02.11
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Mr. Aviraj Deshmukh a/w Ms. Srisidhi Sabne, for the
Petitioner.

Mr. Anil Anturkar, Sr. Advocate a/w Mr. Rajat V. Dighe,
for Respondent No.2.

Mr. Sachin Mandlik a/w Tanay Musale, Ms. Aditi
Tamhankar i/b Mandlik & Partner, for Respondent
No.3.

Ms. S. D. Chipade, AGP, for the State – Respondent
No.1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 11, 2026

P.C.:

1. The petitioner claims to be the owner of the larger plot of land. He challenges the order passed by the Competent Authority under Section 11(3) of the Maharashtra Ownership Flats Act, 1963. His main grievance is simple. According to him, the authority has granted conveyance of a larger extent of land to respondent No. 2 society than what the society is legally entitled to receive. In substance, he says that the authority has travelled

beyond the promoter's own rights and has conferred more than what could have been conveyed.

2. This very issue is no longer *res integra*. A Division Bench of this Court in *Zainul Abedin Yusufali Massawala and others versus Competent Authority*, 2016 SCC OnLine Bom 6028, has clearly explained the nature of proceedings under Section 11 of MOFA. The Court has held that an order of deemed conveyance does not create new rights. It merely transfers whatever right, title and interest the promoter actually possesses. If the promoter or landowner feels that the order covers land or rights beyond what the flat purchasers could lawfully claim, the remedy does not lie in writ jurisdiction. The proper course is to file a civil suit. The civil court can examine the title deeds, development agreements, sanctioned plans, layout approvals, and all surrounding documents. It can record evidence and decide the exact extent of entitlement. Importantly, findings recorded by the Competent Authority in Section 11 proceedings do not bind the civil court. Therefore, the civil rights of the owner or promoter remain fully open for adjudication. No prejudice is caused merely because a deemed conveyance order is passed.

3. The same principle has been reiterated in *Shimmering Heights CHSL and others versus State of Maharashtra*, Writ Petition No. 3129 of 2016 decided on 6 April 2016; in *P.R. Enterprises and others versus Competent Authority*, Writ Petition No. 11251 of 2016 decided on 27 November 2018; and in *Mehboob Ali Humza and others versus District Sub Registrar (3), Mumbai and others*, Writ Petition No. 3129 of 2016 decided on 24

June 2016. In all these decisions, this Court has consistently held that disputes regarding title, quantum of land, development potential, or ownership rights cannot be resolved in writ proceedings. Such issues require a full-fledged trial. Documents must be proved. Parties must be permitted to lead oral evidence. Cross examination may become necessary. The writ court does not undertake this exercise. It does not convert itself into a trial court. Its jurisdiction is supervisory. It examines legality of process, not adjudication of complex title disputes. Therefore, when a landowner asserts that excess land has been conveyed, he must approach the civil court.

4. The Division Bench has repeatedly clarified that where the owner's grievance is about conferment of land in excess of what the society is entitled to, the civil court is the appropriate forum. There, both sides can place their documents. The promoter or owner can demonstrate the exact extent of land retained, the nature of development rights granted, and any limitations contained in agreements. The society can assert its statutory claim. The civil court can frame issues and render findings on entitlement. This structured process ensures that rights are determined after proper evidence.

5. In the present case, the petitioner contends that the promoter was not the owner of the property but merely held development rights. This contention goes to the root of title. Whether the promoter had ownership, leasehold interest, or only a development agreement is not a matter that can be conclusively determined in summary proceedings under Section 11. Such

proceedings are intended to ensure that flat purchasers are not left remediless when conveyance is withheld. They are not designed to adjudicate competing title claims between landowners and developers. It is well settled that findings in summary proceedings do not operate as res judicata in subsequent civil suits on questions of title. The civil court retains full authority to independently assess ownership.

6. In view of the settled legal position laid down by the Division Bench and followed consistently by coordinate Benches, the present petition at the instance of the owner does not warrant interference in writ jurisdiction. The petitioner has an effective alternative remedy before the civil court. He is at liberty to institute appropriate proceedings and raise all permissible grounds. If such a suit is filed, the civil court shall examine the matter independently, uninfluenced by any observations made in the deemed conveyance proceedings, and decide it strictly on its own merits.

7. It is noted that by order dated 5 August 2025, this Court recorded the statement of the contesting respondent that the conveyance would not be executed until the next date. That protection has continued thereafter. In order to enable the petitioner to take appropriate steps before the civil court, and without expressing any opinion on merits on continuation of ad interim relief, the ad interim order dated 5 August 2025 shall continue for a further period of four weeks from today.

8. The writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)