

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10928 OF 2025

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Janak P Kalsara ... Petitioner
V/s.
The Competent Officer &
District Deputy Registrar,
Cooperative Societies & Ors. ... Respondents

WITH
INTERIM APPLICATION NO.11174 OF 2025

S. P. Developers ... Applicant
In the matter between:
Janak P Kalsara ... Petitioner
V/s.
The Competent Officer &
District Deputy Registrar,
Cooperative Societies & Ors. ... Respondents

Mr. Sanjiv A Sawant a/w Heramb Kadam, Bhakti Wast, for the
Petitioner.

Mr. A. R. Gole, for Respondent No.3.

Mrs. Savina R. Crasto, AGP, for the State – Respondent Nos.1
and 2.

CORAM : AMIT BORKAR, J.

DATED : MAY 5, 2026

PC.:

1. The present Petition is instituted at the instance of the owner, calling in question the legality and correctness of the order passed by the Competent Authority in exercise of powers under Section 11(3) of the Maharashtra Ownership Flats (Regulation of

the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (for short "MOFA").

2. The challenge to the impugned order is founded on two principal grounds. Firstly, it is contended that the Power of Attorney, purportedly executed in favour of the Chairman of respondent No. 3 Society, is a fabricated document, inasmuch as the alleged executants were not alive on the date on which the said document is stated to have been executed. Secondly, it is urged that the material relied upon by respondent No. 3 reflects the project area as admeasuring 909 sq. mtrs., whereas the Competent Authority has proceeded to grant unilateral deemed conveyance in respect of a substantially larger area exceeding 1409 sq. mtrs. It is further submitted that, in relation to the alleged fabrication of the Power of Attorney, criminal proceedings are already pending before the competent forum. Additionally, reliance is placed on findings recorded by the Revenue Authority in proceedings initiated under Section 144 of the Maharashtra Land Revenue Code, 1960, wherein it has been observed that the said Power of Attorney stood executed in the name of a person who had expired prior to the date of its purported execution. On the strength of these circumstances, it is contended that this Court, while granting ad-interim relief, had duly taken into account the aforesaid aspects. Learned Advocate appearing for the petitioner submits that, in view of the aforesaid factual and legal position, the impugned order is unsustainable in law and deserves to be quashed and set aside.

3. Per contra, respondent No. 3 has opposed the Petition by contending that the agreements executed under Section 4 of MOFA clearly delineate the area in the manner as has been recognised and granted by the Competent Authority. It is further contended that the scope of powers exercisable by the Competent Authority under Section 11 of MOFA is required to be appreciated in the light of the area reflected in such agreements, read conjointly with the sanctioned plans and other supporting documents submitted along with the application. According to respondent No. 3, the Competent Authority has exercised its jurisdiction strictly in consonance with the statutory scheme and within the parameters prescribed under MOFA, and therefore no interference is warranted in the exercise of writ jurisdiction.

4. Having heard the learned counsel for the parties and upon perusal of the material placed on record, it is evident that a consistent view has been taken by Division Benches of this Court on the nature and scope of proceedings for deemed conveyance. 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), it has been emphasised that such proceedings are not intended for adjudication of complicated issues 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 a limited jurisdiction and cannot determine inter se disputes relating to ownership. Further, in *P.R. Enterprises & Anr. v.*

Competent Authority & Anr. (Writ Petition No. 1125 of 2016, decided on 27 November 2018), it has been held that disputes concerning contractual or proprietary rights must be agitated before the Civil Court.

5. In view of the aforesaid settled legal position, it becomes clear that controversies involving allegations of grant of excess area, as well as disputes pertaining to title and proprietary rights, do not fall for adjudication within the limited scope of jurisdiction under Article 226 of the Constitution of India. The appropriate remedy for the petitioner would be to approach the competent Civil Court.

6. The grievances sought to be raised in the present Petition, namely allegations of forgery and conferment of excess area, inherently involve disputed questions of fact. Determination of such issues would necessarily require the parties to adduce oral as well as documentary evidence and to substantiate their respective claims by entering the witness box, which exercise is impermissible in writ jurisdiction.

7. The Competent Authority, while exercising powers under Sections 4 and 11 of MOFA, functions within a circumscribed jurisdiction, primarily to ascertain compliance with statutory requirements. Such authority is not vested with jurisdiction to adjudicate complex disputes relating to title or ownership.

8. It is well settled that an order passed by the Competent Authority under Section 11 of MOFA does not operate as a bar on the jurisdiction of the Civil Court. Any party aggrieved by such

determination is at liberty to independently approach the Civil Court for adjudication of its rights.

9. It is equally well settled that findings recorded by the Competent Authority are not binding on the Civil Court where the entitlement determined therein is put in issue. In view of the aforesaid discussion and the settled position of law, the petitioner is relegated to the remedy of instituting a Civil Suit. Accordingly, the following order is passed:

(i) The Petition stands disposed of with liberty to the petitioner to approach the competent Civil Court by instituting an appropriate Civil Suit. The Civil Court shall adjudicate the same on its own merits, without being influenced by any observations contained in the impugned order or in the present proceedings.

(ii) In view of the ad-interim protection granted by this Court by order dated 18 August 2025, the same shall continue to operate for a period of six weeks from today.

(iii) It is clarified that continuation of the ad-interim relief shall not be construed as an expression of opinion on the merits of the case.

10. The writ petition stands disposed of in the aforesaid terms.

11. There shall be no order as to costs.

12. In view of disposal of the writ petition, the interim application does not survive and is accordingly disposed of.

(AMIT BORKAR, J.)