

*Shabnoor*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11626 OF 2025

Creena Anil Carvalho

... Petitioner

**V/s.**

The District Deputy Registrar,  
Cooperative Societies, Vasai Division  
& Ors.

... Respondents

SHABNOOR  
AYUB  
PATHAN  
Digitally  
signed by  
SHABNOOR  
AYUB  
PATHAN  
Date:  
2026.02.12  
16:34:54  
+0530

WITH  
INTERIM APPLICATION (ST) NO.3540 OF 2026

Pascol Nagar Cooperative Housing  
Society Ltd.

... Applicant

**In the matter between**

Creena Anil Carvalho

... Petitioner

**V/s.**

The District Deputy Registrar,  
Cooperative Societies, Vasai Division  
& Ors.

... Respondents

Mr. Siddhesh Borkar a/w Sanket Lahote & Shivendra  
Dwivedi, for the Petitioner.

Mr. Kedar B. Dighe, Addl. GP a/w Mr. Hamid D. Mulla,  
AGP, for the State – Respondent.

Mr. Wellesly F. C. with Dillen S., for Respondent No.2.

**CORAM : AMIT BORKAR, J.**

**DATED : FEBRUARY 11, 2026**

**P.C.:**

1. The petitioner, claiming to be the owner and promoter of the subject property, has instituted the present proceedings to assail the legality and propriety of the order passed by the Competent

Authority in purported exercise of powers under Sections 11(3) and 11(5) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963. The challenge is directed against the grant of deemed conveyance and the consequential directions issued thereunder.

2. It is the case of the petitioner that, in an earlier round of proceedings, the Competent Authority had passed an order under Section 11(3) of the Act. The said order was carried in challenge before this Court by way of a Writ Petition. Upon admission of the petition, this Court issued Rule and granted interim protection in favour of the petitioner.

3. Subsequently, upon an application preferred by the respondent society, the order earlier passed under Section 11(3) of the Act came to be set aside. The matter was remanded to the Competent Authority with a direction to afford the petitioner an opportunity to place his objections on record and to contest the claim for deemed conveyance on merits. The remand was thus intended to ensure observance of principles of natural justice.

4. While directing remand, this Court further clarified that any action taken pursuant to the earlier order, including execution and registration of the conveyance deed and mutation entries effected on that basis, would not create any enforceable rights and would remain inoperative. In view of the said clarification, the petitioner addressed an application to the jurisdictional Sub-Registrar seeking cancellation of the registration of the conveyance deed.

5. The petitioner contends that there existed an obligation on the promoter to execute conveyance in respect of Building Nos. F and G in favour of the owner. Alleging failure to discharge such obligation, the petitioner has instituted Regular Civil Suit No. 578, which is stated to be pending adjudication before the competent Civil Court. It is urged that, in view of the pendency of the said suit and the dispute regarding title to Building Nos. F and G, the Competent Authority could not have directed conveyance of those structures in favour of the respondent society. It is further contended that the order directing registration of the conveyance under Section 11(5) of the Act was passed without granting the petitioner an effective opportunity of hearing. On these grounds, the petitioner seeks quashing and setting aside of the impugned order passed under Section 11(5) of the Act.

6. I have heard the learned counsel appearing for the petitioner. I have also perused the material placed on record and considered the submissions in light of the statutory framework governing deemed conveyance under the Act.

7. Before dealing with these objections, it is necessary to recall the nature and scope of power exercised by the Competent Authority under Section 11 of the Act. The scheme of the statute is clear. The promoter is under a statutory obligation to execute conveyance in favour of the society within the prescribed time. If he fails to do so, the society is entitled to approach the Competent Authority for deemed conveyance. The authority is not expected to conduct a full-fledged trial on complicated questions of title. It examines whether the statutory requirements are fulfilled and

whether the promoter has failed to discharge his obligation. The proceedings are summary in character, intended to prevent indefinite withholding of conveyance.

8. The first submission of the petitioner relates to the earlier round of litigation. It is not in dispute that an earlier order under Section 11(3) was challenged before this Court and that the matter was remanded to the Competent Authority. The remand was for the limited purpose of enabling the petitioner to raise objections and to be heard. The earlier order was set aside. The authority was directed to decide the application afresh after hearing both sides.

9. On record it is evident that, after remand, the petitioner was afforded an opportunity to file objections. The authority considered the objections and thereafter passed the impugned order. The mere fact that an earlier order was set aside does not, by itself, create any embargo against a fresh decision in accordance with law. The remand restored the proceedings to the file of the authority. It did not extinguish the society's right to seek conveyance. Therefore, the argument that the authority lacked jurisdiction to proceed after remand cannot be accepted.

10. The petitioner next relies upon the clarification issued by this Court while remanding the matter, namely that any consequential action taken pursuant to the earlier order would remain ineffective. That clarification only neutralized the effect of the earlier order. It did not prevent the authority from passing a fresh order on merits. Once a fresh order is passed after hearing the parties, its validity must be tested independently. The earlier

declaration cannot be extended to nullify a subsequent decision rendered in accordance with law.

**11.** The principal contention advanced by the petitioner is that there is a dispute regarding Building Nos. F and G and that a Regular Civil Suit bearing No. 578/2024 has been filed and is pending before the competent Civil Court. According to the petitioner, the promoter was obliged to convey those buildings in favour of the owner and not the society. On that basis it is argued that the authority ought not to have granted conveyance in respect of those buildings to the society.

**12.** This submission overlooks the limited jurisdiction of the Competent Authority. The authority does not adjudicate inter se title disputes between rival claimants in the manner a civil court does. Its function is to ascertain whether the promoter has failed to execute conveyance in favour of the society as mandated by the Act. If a dispute of title is raised which requires detailed evidence, examination of documents, and adjudication of competing rights, such issues lie within the domain of the civil court. The pendency of a civil suit, therefore, does not automatically bar the authority from granting deemed conveyance. At the same time, an order of deemed conveyance cannot conclude or finally determine questions of title which are sub judice before the civil court.

**13.** In the present case, the authority has granted conveyance in favour of the society subject to the rights of parties. The petitioner has already invoked the jurisdiction of the civil court by filing Regular Civil Suit No. 578/2024 . The civil court is competent to

examine whether Building Nos. F and G form part of the property liable to be conveyed to the society, whether there was any prior obligation to convey in favour of the owner, and what rights flow from the agreements and sanctioned plans. Those questions involve appreciation of evidence and detailed adjudication. This Court, in exercise of writ jurisdiction, cannot convert itself into a trial court to decide those factual disputes.

**14.** The contention that the authority acted without granting an opportunity of hearing also does not merit acceptance. The record reflects that after remand, notice was issued and objections were invited. The petitioner participated in the proceedings. The impugned order records consideration of the objections raised. The requirement of hearing does not mean that the authority must accept the submissions. It is sufficient if a fair opportunity is afforded and the objections are considered. On this aspect, no procedural illegality is demonstrated.

**15.** It was faintly suggested that once the civil suit is pending, the authority ought to have deferred its decision. The Act does not provide for automatic stay of proceedings on that ground. If such a proposition were accepted, any promoter could defeat the statutory right of the society by merely instituting a suit and prolonging the matter. That would defeat the very purpose of Section 11. The correct position is that the order of deemed conveyance operates subject to adjudication by the civil court on substantive rights.

16. The Division Bench of this Court in *Zainul Abedin Yusufali Massawala and others versus Competent Authority* (2016 SCC OnLine Bom 6028) has explained the nature and effect of an order under Section 11 of the MOFA Act. The Court has held that such an order results in conveyance of only those rights which the promoter actually holds in the land and building. If the promoter considers that the order conveys a larger extent of land or rights than what the purchasers are entitled to, the proper course is to institute a civil suit. The civil court will have full jurisdiction to examine the title documents, evidence regarding extent of land, and all connected issues. The findings recorded by the Competent Authority under Section 11 will not bind the civil court. Thus, the civil rights of the promoter remain intact. They can seek full adjudication before the competent civil court without any prejudice arising from the deemed conveyance order.

17. This approach has been consistently followed by this Court in several decisions. 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), the Court has reiterated that writ jurisdiction is not intended for resolution of disputes concerning title, extent of land, development rights, or ownership claims. Such matters demand appreciation of documentary evidence, oral testimony, and factual determination. Only a civil

court is equipped to undertake such an exercise. The writ court does not conduct a mini trial. Therefore, promoters or landowners who dispute the quantum of land or nature of rights conveyed must seek their remedies through a civil suit.

**18.** Having examined each of the submissions, I am of the view that no case for interference under Article 226 is made out. The Competent Authority has acted within jurisdiction. It has followed the procedure prescribed. The impugned order does not suffer from perversity or patent illegality. The disputes raised by the petitioner pertain essentially to title and inter se rights, which can be effectively adjudicated in the pending civil suit.

**19.** Accordingly, the petition is dismissed. It is clarified that the dismissal of this petition shall not prejudice the rights and contentions of the petitioner in Regular Civil Suit No. 578 or any other appropriate civil proceedings. The civil court shall decide the matter on its own merits, uninfluenced by any observations contained herein. Liberty is granted to the petitioner to pursue all remedies available in law before the competent civil court.

**20.** Since this Court, by order dated 16 October 2025, restrained the respondent–society from creating any third-party rights in respect of the subject property, the said interim order shall continue for a further period of four weeks from today. It is clarified that continuation of the interim relief shall not be construed as an expression of opinion on the merits of the case of either party.

21. The writ petition stands disposed of. No costs.
22. In view of the disposal of the writ petition, the pending interim application, if any, stands disposed of accordingly.

**(AMIT BORKAR, J.)**