

Shabnoor

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

WRIT PETITION NO.12249 OF 2025

**SHABNOOR
AYUB
PATHAN**

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**Chetan Singh Yashwant Singh Patil
(Rajput)**

Age 45 Years

House No.A/5 Bijali Sahakari, Gruha Nirman
Sanstha Maryadit.

C.T.S. No.4947 B, Vidya Nagari Marg,
Kalina, Kolkalyan Village, Santa Cruz
(East)Mumbai-400 098.

Residing at A/501,502, Highland Tower,
Building No.1, Kandivali, Lokhandwala
Complex, Kandivali (East), Mumbai -
400 101.

... Petitioner

V/s.

- 1. Chairman / Secretary,
Bijlee Sahakari Gruha Nirman Sanstha
Maryadit,
36/142, Sundar Nagar, Kalina,
Santa Cruz, (East), Mumbai - 400 098.**
- 2. Smt. Poornima D, Rajput,
Flat No.A/5, Bijali Sahakari Gruha Nirman
Sanshta Maryadit.
C.T.S. No.4947 B, Vidya Nagari Marg, Kalina,
Kolkalyan Village, Santa Cruz (East),
Mumbai 400 098.**
- 3. Deputy Registrar,
Co-operative Societies, H/East Ward,
Bandhari Sahakari Bank Building.
2nd floor, PL.Kale Guruji Marg,
Dadar (West), Mumbai - 400 028.**

4. Divisional Joint Registrar,

Co-operative Societies, Mumbai Division,
Mumbai.

... Respondents

Mr. Nachiket Khaladkar, for the Petitioner.

Mr. Vivek Salunkhe a/w Ms. Tanaya Goswami, for
Respondent No.1.

Mr. Prashant P. Kulkarni a/w Ms. Rachna Mamnani, for
Respondent No.2.

Ms. M. S. Shrivastava, AGP, for the State – Respondent
Nos.3 & 4.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 22, 2026

JUDGMENT:

1. This petition comes from proceedings under Section 22(2) of the Maharashtra Cooperative Societies Act, 1960. The petitioner's claim for membership in respect of Flat No. A-5 has been rejected by the Authorities under the Act.

2. The brief facts are as follows. The petitioner says that his father was a member of respondent No.1 Society and held share certificate Nos. 26 to 30 dated 24 November 1981. During preparation of the voters list, the Election Officer asked for claims from persons asserting membership. After checking the documents of the petitioner's father, the Administrator included his name in the voters list. The petitioner states that his father later executed a registered Gift Deed on 23 April 2018 in his favour. The Society opposed the claim. The Society said that no valid document of title or valid share certificate was produced to show that the

petitioner's father owned or held membership in Flat No. A-5.

3. The Society also relied on Dispute No. 485 of 1994 filed under Section 91 of the MCS Act by the petitioner's father. In that case, the petitioner's father had stated that Flat No. A-5 was exchanged with Flat No. A-2 and that he was in possession of Flat No. A-2. According to the Society, this showed that the petitioner's father never possessed Flat No. A-5. The Society further stated that no document of title existed for Flat No. A-5. The Society relied on Bye-Law No. 8 which requires that a person seeking membership must not hold another flat or plot in Mumbai.

4. Respondent No.2 also opposed the claim. Respondent No.2 stated that the share certificate relied upon by the petitioner did not contain the signatures of either the Chairman or the Secretary of the Society. Respondent No.2 stated that he has been in possession of Flat No. A-5 since 1980. The Authorities under the Act refused to grant membership. The Authorities found that the share certificate did not bear signatures of authorised officers and no document of title was produced for Flat No. A-5. The petitioner's claim was therefore rejected, which has led to this petition.

5. The petitioner's Advocate referred to the share certificate said to be issued in favour of the petitioner's father. It was submitted that the father had acquired it from one Agnihotri, an earlier member of the Society. It was submitted that the Society always treated the petitioner's father as a member and that his name was also included in the voters list. The petitioner relied on

a General Body Resolution dated 14 November 1981, by which the petitioner's father and two others were to be enrolled as members. Based on this, the share certificate was said to have been issued. The petitioner therefore argued that the impugned orders are illegal and must be set aside.

6. The Society's Advocate relied on the same General Body Resolution dated 14 November 1981. The Society submitted that although the resolution said that the petitioner's father was to be enrolled as a member, no further steps were taken because the petitioner's father did not produce any document showing transfer of title from Agnihotri, who was the original member.

7. The Society submitted that the share certificate produced by the petitioner does not contain signatures of the Chairman or the Secretary. The Society compared it with certificates issued to the other two persons named in the same General Body Resolution. Those certificates bear signatures of the Chairman and Secretary and are in the proper format. The certificate produced by the petitioner only carries an endorsement on the back stating that the petitioner's father was enrolled as a member. The Society submitted that the Administrator had included the father's name in the voters list only on the basis of a claim and that the Administrator had no authority to decide membership. The Society submitted that the petitioner has not produced any document of title showing ownership of the father. The Society also submitted that since the father held another flat, he was not eligible for membership under Bye-Law No. 8. The Society therefore prayed for dismissal of the petition.

8. The Advocate for respondent No.2 supported the Society's submissions. He also pointed out that in the dispute filed by the petitioner's father, he had admitted exchange of Flat No. A-2 with Flat No. A-5. Respondent No.2 prayed for dismissal of the petition.

9. The Court has examined the record. The petitioner was specifically directed to produce a document of title in favour of his father. The petitioner has not produced any such document. There is no material before this Court to show that the petitioner's father ever acquired ownership of Flat No. A-5 from the original member or any other lawful source.

10. The share certificate placed on record does not bear the signatures of the Chairman or the Secretary. This is not a minor defect. The other two persons mentioned in the General Body Resolution dated 14 November 1981 hold share certificates that carry the signatures of the authorised office bearers and are in the proper format. The petitioner's document does not meet this basic requirement.

11. The name of the petitioner's father was included in the voters list only because the Administrator accepted his claim. The Administrator had no authority to decide whether a person is a valid member. The voters list cannot create membership. Membership must flow from documents of title and valid share allotment in accordance with the bye-laws.

12. There is no document of title. There is no valid share certificate. On these facts, the petitioner has failed to prove that his father was either an owner or a member in relation to Flat No.

A-5. The petitioner cannot claim membership by inheritance through a defective or unproved membership.

13. If the petitioner claims any right in Flat No. A-5, he must first establish such right before a competent civil forum. Only after establishing ownership can a claim for membership arise. The Society cannot be directed to confer membership in the absence of any lawful ownership.

14. The Authorities under the Act acted on evidence. They noted the absence of a valid share certificate and absence of title documents. There is no jurisdictional error in their decision. The writ petition is dismissed.

15. There shall be no order as to costs.

16. All pending interlocutory applications, if any, stand disposed of.

(AMIT BORKAR, J.)