

Shabnoor

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

WRIT PETITION NO.12902 OF 2025

Samarth Erectors & Developers

Mariyamman

... Petitioner

V/s.

The District Deputy Registrar,
Cooperative Societies Mumbai City
& Ors.

... Respondents

Mr. Milan Desai i/b Ms. Ashwini Desai, for the
Petitioner.

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

Mr. Mayur Khandeparkar, a/w Mr. Mehul Shah, Karan
Desai & Abhishek Nikharge, for Respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 20, 2026

P.C.:

1. The present petition challenges an order passed under Section 11(3) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (“MOFA”). The challenge is at the instance of a person who claims title over a part of the property sought to be conveyed pursuant to the impugned order.

2. According to the petitioner, he is the owner of a portion of CTS No. 385. He contends that by virtue of the order of deemed conveyance, his ownership rights in respect of CTS No. 385 are

adversely affected. It is therefore urged that he was entitled to be heard in the proceedings under Section 11 of MOFA. The petitioner submits that the impugned order has been passed in breach of the principles of natural justice and, on that ground, deserves to be quashed and set aside. He further prays that the proceedings be remitted to the Competent Authority under Section 11 of MOFA for consideration of his alleged rights in respect of CTS No. 385.

3. On a perusal of the application filed by the respondent-housing society, it is evident that the society has claimed rights in respect of Plot No. 65, Survey No. 46, Hissa No. 5, corresponding to CTS No. 385. Whether the portion of CTS No. 385 claimed by the petitioner forms part of the property claimed by the respondent society is essentially a question of fact and title, which requires conclusive adjudication by a Civil Court. The authority exercising powers under Section 11 of MOFA has limited jurisdiction and is not empowered to adjudicate disputed questions of title or ownership of immovable property.

4. This Court, in *Shimmering Heights CHS Ltd. & Ors. v. State of Maharashtra & Ors.* (Writ Petition No. 3129 of 2016, decided on 6 April 2016), and a Division Bench of this Court in *Zainul Abedin Yusufali Massawawala & Ors. v. Competent Authority, District Deputy Registrar of Co-operative Housing Societies, Mumbai & Ors.*, 2016 SCC OnLine Bom 6028, as well as in *P.R. Enterprises & Anr. v. Competent Authority & Anr.* (Writ Petition No. 1125 of 2016, decided on 27 November 2018), has consistently held that where the grievance relates to contractual entitlement or

ownership rights, such disputes pertain to questions of title that fall within the exclusive domain of the Civil Court.

5. In my view, the petitioner raises a dispute about ownership of land. He claims that the deemed conveyance order covers land that he owns. This raises a clear question of title. Such a question needs evidence about boundaries, documents, and possession. Only a Civil Court can examine such material and record findings on title. The authority under Section 11 of MOFA does not have that power. It only checks whether the society has made out a case for deemed conveyance as per the statute and record. There is no material before me to decide ownership of the portion claimed by the petitioner. The record only shows that the society claimed rights over the larger CTS number. It does not establish with certainty whether the petitioner's portion falls within it. To resolve that issue, the petitioner must lead evidence. He must produce title documents, survey extracts, and other relevant material before a Civil Court.

6. The proper course is to direct the petitioner to file a civil suit. The Civil Court can then decide whether the deemed conveyance order overlaps with his land. It can grant appropriate relief if it finds merit in his claim. I therefore relegate the petitioner to the civil remedy.

7. Hence, all questions raised by the petitioner in the present petition are kept open to be agitated before the Civil Court. The writ petition is therefore disposed of in the above terms.

(AMIT BORKAR, J.)