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DEEPAK
UPASANI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14153 OF 2025

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Shubhangi Shripat Thenge and Others ... Petitioners

V/s.

The District Deputy Registrar Co-
operative Society and others ... Respondents

Mr. Jayant Gaikwad, for Petitioners.

Ms. D. S. Deshmukh, AGP for State-Respondent no. 1.

CORAM : AMIT BORKAR, J.

DATED : MARCH 23, 2026

P.C.:

1. The present petition is filed by two persons who claim to be legal representatives of the original owners. They are challenging the order passed by the competent authority under Section 11 of the MOFA Act. Their main grievance is twofold. First, they say that two of the legal representatives had already expired even before the proceedings under Section 11 were started, and therefore the entire action is defective. Second, they say that certain flats and shops which belonged to the original owners are not included in the building for which the certificate has been granted. According to them, this has caused serious prejudice, because their property rights are not properly reflected. This Court has carefully considered these objections. At first glance,

the argument appears serious. But the issue is whether such defects go to the root of the proceedings or whether they can be addressed in some other manner without disturbing the entire action.

2. On going through the record, the sequence of events becomes clearer. One Shripat Gajanan Thenge had executed a development agreement in favour of Opponent No. 1, namely Santosh Construction. After his death, his legal representatives were required to represent his estate. Accordingly, Opponent Nos. 2 to 6 were brought on record as his legal heirs. It is important to note that Opponent Nos. 3 to 5 were already on record at the time when the proceedings were initiated and decided by the competent authority. This shows that the estate of the original owner was not left unrepresented. It was sufficiently represented through these legal heirs. In such a situation, merely because there may have been some delay or defect in bringing other legal representatives on record, it cannot be said that the entire proceedings become invalid from the beginning. Law requires substantial representation of interest. That requirement appears to be satisfied here.

3. At the same time, if Opponent Nos. 2 and 6 have any grievance that their rights are not properly recognized, or that their properties are not included, the law does provide them a separate remedy. They can take appropriate proceedings as permitted. Therefore, their grievance can still be examined

without setting aside the entire order.

4. In view of this position, this Court is of the opinion that the present petition cannot be entertained at this stage. The objections raised by Opponent Nos. 2 and 6 are not shut out. They are kept open. They can be decided by the appropriate authority in proper proceedings. Interference in writ jurisdiction is not necessary when an effective remedy is available and when the main proceedings are not shown to be fundamentally defective.

5. As regards the application for membership by Opponent Nos. 3 to 5, it is directed that if such application is made, the society shall consider the same in accordance with law. This exercise shall be completed within a period of six weeks from the date on which the application is submitted.

6. With these observations, the petition stands disposed of. There shall be no order as to costs.

(AMIT BORKAR, J.)