

Shabnoor

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

**REVIEW PETITION NO.189 OF 2025
IN
WRIT PETITION NO.205 OF 2024**

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Silver Beach Hotels Pvt. Ltd.

... Petitioner

V/s.

Divisional Joint Registrar,
Cooperative Societies Mumbai Division
& Ors.

... Respondents

Mr. Venkatesh R. Dhond, Sr. Advocate a/w Mr. Yadunath Choudhari, Kevin Periera, Mr. Chinmaya Acharya, for the Petitioner.

Mr. Kedar B. Dighe, Addl. GP with Mr. B. B. Dahiphale, AGP, for the State – Respondent Nos.1 and 2.

Mr. Prasad Dani a/w Mr. Suraj Iyer, Ms. Gauri Joshi i/b Ganesh & Co., for Respondent Nos.3 and 4.

Mr. Aniesh S Jadhav a/w Shyam K Singh, for Respondent No.5.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 7, 2026

P.C.:

1. The petitioner has instituted the present review petition primarily contending that Mr. Jain, who executed the deed of assignment in favour of respondent Nos. 3 and 4, had no valid title to the subject property. It is urged that, in the absence of ownership, Mr. Jain could not have conveyed any right, title, or interest higher or better than what he himself possessed.

2. It is contended that, while rendering the judgment dated 17 November 2025, this Court proceeded on the premise that the title of Mr. Jain was undisputed and that he was the absolute owner of the property. According to the petitioner, such an assumption is erroneous, since Mr. Jain had himself instituted a suit for specific performance seeking conferment of ownership, which clearly indicates that ownership had not vested in him. On this basis, it is submitted that Mr. Jain neither could have transferred ownership nor did he, in fact, transfer ownership in favour of respondent Nos. 3 and 4. It is further contended that respondent Nos. 3 and 4 were not entitled to apply for membership. The petitioner submits that the application before the Authority was not for conferment of fresh membership, but for transfer of membership, even though no valid member existed on the date of the alleged transfer. On these grounds, the review petition has been filed.

3. It is correct that, at some places in the judgment, this Court has described the document as a “sale deed” though it is titled as a “deed of assignment”. In the facts of this case, this distinction does not change the legal position. What is relevant is that the document is a registered instrument. By such registered deed, respondent Nos. 3 and 4 could receive only those rights which Mr. Jain himself possessed at the relevant time. No higher right could pass. Even assuming that the document is governed by the provisions of the MOFA, the legal consequence remains the same. A person claiming through a registered MOFA agreement is entitled to all rights which the Act confers on a flat purchaser. As already clarified in paragraph 8 of the judgment, the Registrar is

not required to decide title disputes. His inquiry is confined to seeing whether the applicants trace their claim to membership through the owner on the basis of a valid registered document. On the face of the record, respondent Nos. 3 and 4 have produced a registered MOFA agreement in their favour. That document supports their claim, at least prima facie. Further, the observations in paragraph 4 of the judgment clearly show that the suit for specific performance filed by Mr. Jain was for enforcement of the development agreement. It was not a suit disputing the existence of the registered instrument under which respondent Nos. 3 and 4 claim.

4. In this background, and keeping in mind the limited jurisdiction of the Registrar, no fault can be found with the earlier decision. The Registrar's order relating to conferment or transfer of membership is only provisional in nature. It does not finally decide ownership or title. The parties always retain the right to approach a competent civil court for adjudication of their substantive rights. Since no patent error is shown on the face of the record, the review jurisdiction cannot be invoked.

5. The review petition, therefore, deserves to be dismissed and is accordingly dismissed.

(AMIT BORKAR, J.)