

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 959 OF 2026

Anusaya Raman Sankhe And Anr

...Petitioners

Versus

The Competent Authority District Deputy
Registrar And Ors

...Respondents

Mr. Sarthak Diwan, for the Petitioners.

Mrs. M. S. Srivastava, AGP for the State.

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CORAM: N. J. JAMADAR, J.

DATED: 2nd FEBRUARY, 2026

Order:-

1. Heard the learned Counsel for the parties.
2. By this petition under Article 227 of the Constitution of India, the petitioners – Developers assail the legality, propriety and correctness of an order dated 5th December, 2025 passed by the Deputy Registrar, Co-operative Societies and the Competent Authority, under Section 11(3) the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963, (“MOFA, 1963”), thereby granting a certificate of Unilateral Deemed Conveyance in favour of respondent Nos.2 to 4 – Societies.

3. Mr. Diwan, the learned Counsel for the petitioners, submitted that the petitioners have developed the buildings on the basis of the building plan sanctioned by the Planning Authority admeasuring 3068.59 sq. mtrs. out of the entire land admeasuring 4095.00 sq. mtrs. The petitioners have subsequently obtained revised permission for construction of another building. Disputes arose leading to institution of multiple proceedings, including SCS/49/2018 and RCS/100/2025 by the petitioners against the Societies. The latter, in turn, have instituted SCS/7/2020 against the petitioners seeking declaration and injunction. The Planning Authority has revoked the building permission by an order dated 8th September, 2018, which is also subject matter of WP/14260/2022. In the wake of these proceedings, the Competent Authority could not have granted a certificate of Unilateral Deemed Conveyance in respect of the entire land admeasuring 4095 sq. mtrs.

4. From the perusal of the Agreement for Sale executed by the petitioners – Developers in favour of the individual members of respondent Nos.2 to 4 Societies, (page 73 of the petition), it becomes abundantly clear that the area of the land over which the buildings have been constructed is shown as 4095 sq. mtrs.

The claim of the petitioners is that, since under the building permission granted by the Planning Authority, only 3068.59 sq. mtrs. construction was to be erected, the Co-operative Societies of the flat purchasers do not have right to conveyance of the entire land.

5. Evidently, the petitioners have filed RCS/100/2025 against respondent Nos.2 to 4 Societies seeking a declaration of ownership over the area admeasuring 1026.40 sq. mtrs. It is trite the Competent Authority is not competent to delve into the question of title. The grant of certificate of Unilateral Deemed Conveyance does not preclude the aggrieved party from instituting a suit before the Civil Court in assertion of the proprietary title over the land in respect of which a certificate of Deemed Conveyance has been granted. A useful reference in this context can be made to the judgment of the Supreme Court in the case of *Arunkumar H. Shah HUF vs Avon Arcade Premises Co-operative Society Limited and ors.*¹.

6. In the case at hand, in fact, a suit has already been instituted by the petitioners seeking declaration in regard to the area admeasuring 1026.40 sq. mtrs. over which the petitioners still claim ownership. All the questions can, thus, be

¹ 2025 SCC online SC 828.

legitimately adjudicated in the said suit and the other suits, which are subjudice before the Civil Court. Thus, no case for exercise of supervisory jurisdiction is made out.

7. Needless to clarity that, all questions are kept open to be adjudicated in the civil suits and the impugned order shall not impinge upon the claims of proprietary title over the suit property before the Civil Court.

8. Subject to aforesaid clarification, the petition stands dismissed.

[N. J. JAMADAR, J.]