

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5228 OF 2026

Dharamkumar Omprakash Trivedi ..Petitioner

Versus

The State of Maharashtra & ors. ...Respondents

Mr. Rohan Sawant i/b Mr. Sanket Mungale, for petitioner.

Mr. Vishal Kanade a/w Mr. Aditya Kanchan i/b Lakshyavedhi
Legal, for Respondent No. 3.

Smt. M S Srivastava, AGP for Respondent- State

CORAM: N. J. JAMADAR, J.

DATE : 24th APRIL 2026

P.C.:

1. Heard the learned Counsel for the parties.
2. The petitioner, who claims to be a co-owner of the property bearing new CTS No. FP/94, old CTS No. 98 situated at Borivali (West), Mumbai ('the larger property'), assails the legality, propriety and correctness of an order dated 04th March, 2026, passed by the District Deputy Registrar and Competent Authority thereby granting a certificate of unilateral deemed conveyance in respect of an area admeasuring 2,824.42 sq. mtrs. out of the larger property alongwith building situated thereon, in favour of Respondent No. 3 under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of

Construction, Sale, Management and Transfer) Act, 1963 ('the MOFA, 1963').

3. Mr. Sawant, the learned Counsel for the petitioner submitted that, the Competent Authority has granted a certificate of unilateral deemed conveyance in favour of Respondent No. 3 far in excess of its entitlement. In fact, under the lease deed executed by the owners in favour of the Respondent No. 4, the owners/lessors have reserved the right to receive the lease rent. The Competent Authority was, therefore, not at all justified in granting a certificate of unilateral deemed conveyance.

4. In any event, since the Respondent No. 3 Society's building was constructed by utilizing the FSI, the entitlement of the Respondent No. 3 Society ought to have been determined in accordance with the Government Resolution dated 22nd June 2018. The method of sub-division of land commensurating with the built-up area of the Respondent No. 3 Society and Respondent No. 17 – Sambhav Darshan Jambli Galli CHS Ltd., another Co-operative Housing Society, in whose favour a certificate of unilateral deemed conveyance has already been granted, could not have been resorted to. Thus, the grant of the certificate of unilateral deemed conveyance in favour of

Respondent No.3 Society is in excess of its entitlement and to the prejudice of the owners of the larger property and Respondent No. 17 – Sambhav Darshan Jambli Galli CHS Ltd. Reliance was sought to be placed by Mr. Sawant on a judgment of a learned Single Judge in the case of *Radha Vishweshwar Co-operative Housing Society Ltd. & anr. Vs. New Bansi Park Co-operative Housing Society Ltd. & ors*¹.

5. The aforesaid submissions of Mr. Sawant were controverted by Mr. Kanade, the learned Counsel for Respondent No. 3 Society. Inviting the attention of the Court to the articles of agreement executed between the owners and Respondent No. 4/Promoter, Mr. Kanade would urge that, the owners have divested themselves of the right, title and interest in the larger property.

6. The thrust of the submission of Mr. Sawant is that, the Respondent No. 3 Society has been granted a certificate of unilateral deemed conveyance in respect of an area far in excess of its entitlement. In the considered view of this Court, the aforesaid submission cannot be legitimately canvassed by the petitioner who claims to have a reversionary interest in the larger property as a lessor. If the articles of agreement executed

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by the owners in favour of M/s. Noopur Developers (R-4), the promoter, and the articles of agreement executed by the promoter in favour of the purchasers, are considered in juxtaposition, *prima facie* an inference becomes justifiable that, now the owners cannot assert independent right, title and interest in the larger property. Since more than one societies have been developed over the larger property, if at all Sambhav Darshan Jambli Galli CHS Ltd. (R-17) is aggrieved by an order of grant of certificate of unilateral deemed conveyance in favour of the Respondent No. 3, it is for the Respondent No. 17 to agitate the said grievance in an appropriate proceedings. Therefore, the challenge at the instance of the petitioner who claims to be one of the original owners of the larger property to the grant of certificate of unilateral deemed conveyance, does not merit countenance.

7. In any event, if the petitioner intends to question the title of Respondent No. 3 – Society to the land in respect of which a certificate of unilateral deemed conveyance has been ordered to be issued in favour of the Respondent No. 3, the impugned order does not preclude the petitioner from agitating the said issue in a properly constituted title suit before the Civil Court. A useful reference in this context can be made to a judgment of the

Supreme Court in the case of *Arunkumar H. Shah Huf Vs Avon Arcade Premises Cooperative Society Limited*².

8. The question of extent of entitlement of Respondent No. 3 Society and Respondent No. 17 Society does not merit determination in this petition. Therefore, the submission of Mr. Sawant premised on the iniquitous division of area between the Respondent No. 3 and Respondent No. 17, cannot be acceded to. Resultantly, the reliance on the judgment in the case of *Radha Vishweshwar CHS Ltd.(supra)*, which was essentially a contest between two co-operative societies who laid rival claims, does not advance the cause of the submission on behalf of the petitioner.

9. In the case at hand, the impugned order does not suffer from such manifest illegality as to sustain a challenge thereto, at the instance of the petitioner.

10. The Writ Petition thus stands dismissed.

[N. J. JAMADAR, J.]