

Sayali

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

**WRIT PETITION NO. 5930 of 2026
AND
WRIT PETITION NO.5931 OF 2026**

**SAYALI
DEEPAK
UPASANI**

Digitally signed
by SAYALI
DEEPAK
UPASANI
Date: 2026.05.04
18:31:05 +0530

Mukesh Hariram Kukreja

... Petitioner

V/s.

Bhoj Bhavan Co-op Hsg. Soc. Ltd and
Others

... Respondents

Mr. Jagdish Choudhary with Mr. Ranvir Shekhawat
i/b Raj Legal, for Petitioner in both petitions.

Mr. A. C. Bhadang, AGP for State- Respondent nos. 3
to 6 in WP/5930/2026.

Mrs. Ashwini A. Purav, AGP for State-Respondent nos.
3 to 6 in WP/5931/2026.

Mr Dhrupad Patil with Ashish Jagiasi, Minal
Chandnani and Shashank Khanumathar, for
Respondent no. 1 in both petitions.

Mr. Amey Tawde i/b K. I Legal, for respondent no. 2
in both petitions.

CORAM : AMIT BORKAR, J.

DATED : MAY 04, 2026

P.C.:

1. The challenge raised in the present petitions emanates from an order passed by the competent authority in purported exercise of powers under Section 11(3), together with a corrigendum

order subsequently issued at the instance of the petitioner. The petitioner asserts a co-ownership interest in the immovable property bearing CTS No. 449, Survey No. 18-D. It is his specific case that he was impleaded in the proceedings under Section 11 in such capacity as a co-owner; however, notwithstanding such impleadment, no notice was served upon him prior to the passing of the impugned order.

2. It is further contended on behalf of the petitioner that the corrigendum issued by the competent authority travels beyond the permissible limits of its jurisdiction. According to the petitioner, the nature and scope of the corrigendum are such that it cannot be sustained as a mere clerical or accidental correction, but in substance amounts to a review or modification of the original order. Such an exercise, it is urged, is not contemplated within the statutory framework governing the authority's powers, there being no express provision conferring power of review. On this premise, it is submitted that both the original order as well as the corrigendum are vitiated in law and are liable to be quashed and set aside.

3. Per contra, the learned Advocate appearing for the respondent society has opposed the petitions by placing reliance upon an arbitration award rendered inter se between the petitioner's father and his two brothers. It is submitted that the said award clearly delineates the division of rights in respect of the subject property, and specifically records that the portion

admeasuring 18-D of the subdivided Survey No. 18, upon which the building in question stands constructed, has been allotted to Bhojraj Khemchand, being the father of those co-owners who have issued their no objection to the grant of deemed conveyance in favour of the society. In contrast, it is pointed out that the petitioner's father was allotted building 18-B, which has since been developed and alienated by him. On this basis, it is contended that the petitioner cannot assert any subsisting co-ownership rights in respect of building 18-D, as any such claim stood extinguished by virtue of the binding arbitration award, which has admittedly not been challenged by any of the concerned parties. Consequently, it is urged that the petitioner was neither a necessary nor a proper party to the proceedings under Section 11, and no prejudice can be said to have been caused to him.

4. Having given consideration to the submissions advanced from both the sides, this Court finds it necessary to first note the nature of the proceedings from which the impugned order has arisen. The proceedings under Section 11 are of summary character, where authority is not expected to enter into full-fledged adjudication of disputed questions. In such type of proceedings, the authority acts on prima facie material and documents placed before it, and does not undertake examination of complicated factual disputes. Therefore, when the petitioner is raising issues touching upon his alleged co-ownership and absence of notice, it must be seen in light of this limited scope.

The structure of such proceedings indicates that they are intended for expeditious facilitation of conveyance, and not for deciding rival claims of title finally. Hence, any grievance which requires detailed evidence, cross-examination, or determination of rights in rem, cannot be properly gone into in such summary jurisdiction.

5. The legal position on this aspect is now well settled and leaves little scope for doubt. In *Valentine Cooperative Housing Society Ltd. v. District Deputy Registrar, Cooperative Societies and Others* 2026 SCC OnLine Bom 1833, when read together with the judgment of the Hon'ble Supreme Court in *Arunkumar H. Shah HUF v. Avon Arcade Premises Co-op. Society Ltd.* (2025) 7 SCC 249, it becomes sufficiently clear that the Competent Authority acting under Section 11 of MOFA does not exercise powers of a civil court for final determination of title. The jurisdiction is summary in nature, confined to examining whether a case is made out for grant of deemed conveyance on the basis of available material. It is not expected to conclusively pronounce upon ownership rights or adjudicate competing title claims. The Supreme Court has clarified that such proceedings do not extinguish or finally decide civil rights, and therefore, any person aggrieved retains the liberty to approach the competent civil court. Further, while exercising writ jurisdiction under Article 226, this Court does not act as an appellate forum over such orders. Interference is warranted only when there is clear illegality, lack of jurisdiction, or perversity of such nature that it

becomes apparent on the face of the record. Where the dispute essentially revolves around extent of property, nature of title, entitlement, or conflicting claims between parties, the writ court must adopt a cautious approach. Especially in cases where a person asserts ownership and such claim is disputed, the appropriate and efficacious remedy lies in institution of a civil suit, where evidence can be properly led and adjudicated.

6. In the present matter, on a prima facie assessment of the material placed before this Court, there appears to be some substance in the contention advanced on behalf of the respondent society. The arbitration award, which has been relied upon, indicates that building bearing 18-D, forming part of the larger Survey No. 18, has been allotted to Bhojraj Khemchand. It is not in dispute that the legal heirs or persons deriving interest from said Bhojraj Khemchand have already granted their no objection for conferment of deemed conveyance in favour of the society. This circumstance suggests that the persons who are presently recognized as having interest in the said portion have consented to the conveyance. At the same time, the petitioner seeks to assert a contrary claim of co-ownership. Such conflicting positions cannot be satisfactorily resolved merely on affidavits or limited material, particularly when the arbitration award remains unchallenged and continues to hold field. Therefore, at this stage, it cannot be said that the petitioner's claim stands established so as to invalidate the action taken by the authority in summary proceedings.

7. In view of the aforesaid position, this Court is of the opinion that, having regard to the summary nature of the proceedings under Section 11, the dispute raised by the petitioner cannot be conclusively determined in the present writ jurisdiction. The claim of title set up by the petitioner involves examination of rights flowing from the arbitration award, the extent of property, and the nature of co-ownership, all of which require detailed adjudication. Such adjudication necessarily demands leading of evidence and proper trial, which is within the domain of the civil court. Hence, if the petitioner is desirous of establishing his alleged right, title, or interest in respect of the property in question, the appropriate course would be to institute a civil suit before a competent court, where all issues can be fully examined in accordance with law.

8. In the result, while keeping open the right of the petitioner to agitate his claim in appropriate civil proceedings, this Court does not find any ground to interfere with the impugned orders in exercise of writ jurisdiction. The petitions, being devoid of merit in the limited scope of judicial review available in such matters, stand dismissed. There shall be no order as to costs.

(AMIT BORKAR, J.)