

MPBalekar

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

WRIT PETITION NO. 8027 OF 2025

Venice Co-Op. Hsg Society Ltd. ... Petitioner
V/s.
District Deputy Registrar Co-Op.
Societies and Ors. ... Respondents

**WITH
INTERIM APPLICATION NO. 1529 OF 2026
IN
WRIT PETITION NO. 8027 OF 2025**

Mr. Rajesh K. a/w Deepika P. i/by Res Juris for the petitioner.

Mrs. P.J. Gavhane, AGP, for the State – Respondent No.1.

Mr. A.R. Gole, for Respondent No. 6.

Mr. S.C. Wakankar for the Applicant – Intervener.

Mr. Deepak Prabhu a/w Mangesh G., Prashant B. and Nilkanth Dalvi, present in person.

Ulhas N. Mulik, Chairman, present in person.

Ganesh M. Khedekar, Committee Member, present in person.

CORAM : AMIT BORKAR, J.

DATED : MARCH 10, 2026

P.C.:

1. The challenge in this writ petition arises from an order dated 25 January 2024 passed by the competent authority. By the said order, the authority restricted the claim of the petitioner society for unilateral deemed conveyance to an area of 1763.597 sq. mts. The

petitioner society states that this restriction is not correct. According to the petitioner, the society is actually entitled to a larger area measuring 5076.11 sq. mts., and therefore the order passed by the authority requires interference.

2. An adjoining society has intervened in the present petition. The intervener contends that a portion of the land shown in the sanctioned plan as covered parking and paved area was agreed to be used by the intervener society for the purpose of access to their property. Both sides relied upon the marked portion in the plan for proper identification of this area. For clarity, the said portion has been marked in blue pen in the plan. This marked portion indicates the area through which the intervener society claims its access and which, according to both sides, is to remain available for such use.

3. In my opinion, the material placed on record requires consideration. The petitioner has relied upon an Architecture Certificate. From this certificate it appears that the total built up area of the society is 10117.505 sq. mts. It also appears from the same material that the open space which is presently in possession of the petitioner society is about 466.21 sq. mts. These figures provide some indication regarding the extent of development and the remaining open space available with the society.

4. It is important to note that there is no real dispute between the petitioner society and the intervener society on one aspect. Both sides fairly state that the petitioner society is entitled to an area of 5076.11 sq. mts. However, this entitlement is subject to one

condition. The intervener society has an easementary right of access over the portion shown in the sanctioned plan as covered parking and paved area. Therefore, while the petitioner may receive the larger area claimed by it, the access of the intervener over the identified portion is required to be preserved.

5. In view of the above position, it appears that the order passed by the competent authority requires modification. The restriction of the petitioner's entitlement to only 1763.597 sq. mts. does not appear justified when the material on record and the admitted position between the parties are taken into account. The appropriate course therefore is to modify the order so that the entitlement of the petitioner society is clarified while also protecting the access right claimed by the intervener. I therefore pass the following order.

6. The impugned order passed by the competent authority is modified in the following manner.

- i. It is held that the petitioner society shall be entitled to an area of 5076.11 sq. mts.
- ii. The intervener society shall have a right of access through the area described as covered parking and paved area. This portion is particularly marked in the sanctioned plan. An extract of the said plan is annexed to this order as Exhibit "X" for the purpose of identification.
- iii. The competent authority shall issue the necessary certificate accordingly. Thereafter, further steps for registration of the conveyance document shall be taken

within a period of six weeks.

iv. The parties are in agreement that except the designated portion used for parking, the remaining area shall be kept vacant.

7. In view of the above directions, the writ petition stands disposed of. The interim application also stands disposed of.

(AMIT BORKAR, J.)