2026:BHC-AS:26035

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 7620 OF 2026**

Kuber Kartik New Link Road Premises
Co-op Society Limited **...Petitioner**

V/s.

District Deputy Registrar Co-operative
Society Mumbai And Ors **...Respondents**

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**Mr. Mayur Khandeparkar** *with Mr. Nilesh Parmar and Ms. Vishaki Bhatia for Petitioner.*
**Mr. Yatin Khochare** *B'PNL for Respondent-State.*
**Mr. Pankaj Thatte** *for Respondent No. 2.*
**Mr. Amogh Singh** *i/b Mr. Shadab Khan for Respondent No. 3.*

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**CORAM: SANDEEP V. MARNE, J.**

**DATED: 22 JUNE 2026.**

**Oral Judgment:**

1) The issue involved in the present Petition is whether a mistake committed by one cooperative housing society in securing certificate of unilateral deemed conveyance of lesser area of land in the layout than its true entitlement would create a right in favour of another society in the layout to claim the entire balance land, which is more than its actual entitlement?

2) The issue arises in the light of challenge raised by the Petitioner-Society to the order dated 15 May 2025 passed by the District Deputy Registrar, Co-operative Society, Mumbai City-3 and Competent

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Authority (**Competent Authority**) conveying total aggregate land of 6974.83 sq.mtrs. in addition to FSI advantage of D.P road admeasuring 24.57 sq. mtrs. The Petitioner-Society believes that out of the total land in the layout admeasuring 11,656.92 sq. mtrs, after excluding the land admeasuring 1508.00 sq. mtrs. conveyed to Respondent No. 3-Society vide order dated 29 November 2021, the entire balance land (10148.92 sq. mtrs) must be conveyed to it. Since land admeasuring only 6974.83 sq. mtrs. is conveyed in favour of the Petitioner-Society, it has filed the present Petition.

3) I have heard Mr. Khandeparkar, the learned counsel appearing for Petitioner, Mr. Khochare, the learned AGP for Respondent No. 1-State, Mr. Thatte, the learned counsel appearing for Respondent No. 2 and Mr. Singh, the learned counsel appearing for Respondent No. 3- Society.

4) After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that the Respondent No. 2 apparently undertook a common layout development in respect of land bearing CTS Nos. 628, 629, 630, 631 632 and 633 totaling admeasuring 11706 Sq. Mtrs. Though the amalgamation of land bearing CTS No. 628 to 633 happened at a later point of time, it appears that the developer initially proposed construction of the building of Krishna Society (Respondent No. 3) and in the flat purchase Agreements executed under Section 4 of Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 ( **MOFA**), only land admeasuring 1525.43 Sq. Mtrs. forming part of CTS No. 633 got reflected therein. Similarly in respect of buildings of

the Petitioner-Society, following lands are reflected in Section 4 Agreements:-

(a) Kuber Complex building-land bearing CTS No. 628, 629 and 630 admeasuring 1887 sq. mtrs, 1893.4 sq. mtrs. and 1992.4 sq. mtrs. respectively

(b) Kartik Complex building-land bearing survey CTS No. 631 and 632 admeasuring 2131.15 sq. mtrs. and 2344.43 sq. mtrs. respectively.

5) Thus, though a common layout development was ultimately undertaken by the second Respondent-Developer in respect of land bearing CTS Nos. 628 to 633, in the Agreements executed with the purchasers under Section 4 of the MOFA, three distinct pieces of the lands were reflected as indicated above.

6) Respondent No. 3-Society filed Application No. 18 of 2021 for issuance of certificate of unilateral deemed conveyance in respect of land admeasuring 1525.43 Sq. Mtrs. forming part of CTS No. 633 only. The Application came to be allowed by the Competent Authority by order dated 29 November 2021 conveying in favour of the third Respondent-Society only land admeasuring 1508 Sq. Mtrs. forming part of CTS No. 633.

7) Petitioner-Society thereafter filed Application No. 212 of 2024 before the Competent Authority for conveyance of balance land in the layout in its favour. In that Application, the third Respondent-Society

filed an Intervention Application. Additionally, the third Respondent-Society also sought a corrigendum in respect of the order dated 29 November 2021 and sought correction both in the area of land (1508 Sq. Mts.) as well as (CTS Nos.633). On 15 May 2025 the Competent Authority was persuaded to pass two separate orders. By order passed in Application No. 18 of 2021 on 15 May 2025, the Competent Authority issued a Corrigendum increasing the land entitlement of Respondent No. 3 to 4098.81 sq. mtrs. plus proportionate undivided rights in the R.G area admeasuring 583.28 sq. mtrs. aggregating total 4682.09 sq.mtrs. and FSI advantage of DP road. By separate order passed on 15 May 2025, the Competent Authority has allowed the Application No. 212 of 2024 filed by the Petitioner-Society and has determined its land entitlement of 6392.42 sq. mtrs. plus proportionate undivided rights in R.G area admeasuring 582.41 sq. mtrs. aggregating total land of 6974.83 sq.mtrs. plus FSI advantage of DP road.

8) Petitioner got aggrieved by the corrigendum issued by the Competent Authority in Application No. 18 of 2021 and preferred Writ Petition No. 13181 of 2025 in this Court. By judgment and order dated 7 March 2026, this Court has set aside the Corrigendum dated 15 May 2025 granted in Application No. 18 of 2021.

9) The Petitioner has filed the present Petition challenging the certificate of unilateral deemed conveyance dated 15 May 2025 granted in its Application No. 212 of 2024 and insist that since the Corrigendum is set aside and since the land entitlement of Respondent No. 3-Society is crystallized to only 1508.00 Sq. Mtrs. (CTS No. 633) the entire balance land must be conveyed to it.

10) After passing of order dated 7 March 2026 and before filing of the present Petition, another development has occurred. Respondent No. 3-Society approached Respondent No. 2-Promoter and a Deed of Conveyance dated 30 March 2026 is executed in favour of Respondent No. 3 by the Promoter conveying land admeasuring 2590.81 Sq. Mtrs, undivided right in R.G. area 583.28 Sq. Mtrs, aggregating 3174.09 Sq. Mtrs. in addition to proportionate right in the FSI advantage of D.P road. Mr. Singh has contended that as a combined effect of the earlier order dated 29 November 2021 conveying land admeasuring 1508 Sq. Mtrs, and of the Deed of Conveyance dated 30 March 2026, Respondent No. 3-Society has now become owner in respect of both the pieces of land.

11) According to Mr. Khandeparkar the action on the part of Respondent Nos. 2 and 3 in executing Deed of Conveyance dated 30 March 2026 is act of judicial overreach and what could not be achieved while defending Writ Petition No. 13181 of 2025 is achieved by the act of execution of Deed of Conveyance dated 30 March 2026. I do not find much difficulty in accepting this submission canvassed by Mr. Khandeparkar. Respondent Nos. 2 and 3 ought to have avoided the act of executing Deed of Conveyance for the purpose of securing part of the land which was not conveyed in favour of Respondent No. 3 vide certificate dated 29 November 2021. If the certificate dated 29 November 2021 is erroneous and after this Court set aside the Corrigendum dated 15 May 2025, the third Respondent-Society ought to have challenged the original order dated 29 November 2021 so as to get

the area entitlement corrected. This would have actually enabled the Court to remand both Application No. 18 of 2021 filed by Respondent No. 3 as well as Application No. 212 of 2024 filed by the Petitioner-Society for fresh adjudication. However, Respondent Nos. 2 and 3 have clearly acted against the spirit of the order passed by this Court on 7 March 2026 and got a bipartite Deed of Conveyance dated 30 March 2026 conveyed in favour of Respondent No. 3.

12) However, though this Court does not appreciate conduct of Respondent Nos. 2 and 3 in executing Deed of Conveyance dated 30 March 2026, this Court is still not inclined to set aside the impugned order dated 15 May 2025 passed in Application No. 212 of 2024. This is because this Court is convinced with the ultimate outcome of the order dated 15 May 2025 passed by the Competent Authority in Petitioner's Application No. 212 of 2024. The impugned order ensures that both the societies receive only proportionate portions of land. This is demonstrated in the following paragraph.

13) The total land of the layout in CTS No. 628 to 633 is 11706 Sq. Mtrs. After deduction of road set back area of 49.18 sq. mtrs, the balance area was 11,656.92 sq. mtrs. Under the Regulations, a Recreation Ground admeasuring 1165.69 sq. mtrs. was required to be maintained in the layout. After deducting the R.G area, the net plot available for sub division between the two society is 10491.23 sq. mtrs. As per the Government Resolution dated 22 June 2018, this net plot area of 10491.23 sq. mtrs. is required to be divided amongst Petitioner and Respondent No. 3-Society in proportion to built-up area utilized in

construction of their respective buildings. It has come on record that the total built up area of Kuber building is 5705.02 sq. mtrs. and that of Kartik building is 4052.86 sq. mtrs. This means that the total built up area utilized in construction of buildings of Petitioner-Society is 9757.88 Sq. Mtrs. On the other hand, built up area utilized for construction of building of third Respondent-Society is 9772.35 Sq.Mtrs. As per the GR dated 22 June 2018, upon subdivision of the net land admeasuring 10491.23 Sq.Mtrs, in proportion to the built-up area used for construction of the two buildings (Kuber and Kartik) of the Petitioner-Society of 9757.88 Sq. Mtrs, the land entitlement of the Petitioner comes to 6392.42 Sq Mtrs. Thereafter the Competent Authority has also granted proportionate undivided rights in the R.G area admeasuring 1165.69 Sq. Mtrs. and accordingly, R.G entitlement of the Petitioner-Society is 582.41 Sq. Mtrs.

14) The balance land in the layout represents the entitlement of Respondent No. 3-Society based on the built up area utilized in construction of its building. The balance land is 1508 + 2590.81, which is conveyed to the Respondent No. 3 vide order of Competent Authority dated 29 November 2021 and the Deed of Conveyance. In the Deed of Conveyance dated 30 March 2026, the balance RG area of 583.28 Sq. Mtrs. is conveyed by Respondent No. 2 in favour of Respondent No. 3.

15) I am therefore convinced that the impugned order results in conveyance of only proportionate land in favour of Petitioner-Society. What Petitioner-Society seeks to achieve by filing the present Petition is to grab the land meant for Respondent No. 3-Society by taking

disadvantage of the mistake committed by Respondent No. 3-Society in securing certificate of deemed conveyance of land admeasuring only 1508.00 sq. Mtrs. If the Petition of the Petitioners is allowed and the entire balance land (after deducting land admeasured 1508 Sq. Mtrs.) is conveyed in favour of the Petitioner, the same would render illegal the building of Respondent No. 3-Society. The building of Respondent No. 3-Society has built up area of 9772.35 Sq. Mtrs. which cannot sustain itself only on the basis of land admeasuring 1508 Sq.Mtrs. Thus, the result of the present Petition, if allowed, would be demolition of the building of Respondent No. 3-Society, which cannot sustain itself on the basis of land admeasuring 1508 Sq. Mtrs. Therefore, this Court would not exercise jurisdiction under Article 227 of the Constitution of India to achieve such undesirable consequence.

16) On the other hand, this Court is convinced that the actual land entitlement of the Petitioner-Society is what is conveyed vide the impugned order dated 15 May 2025. Jurisdiction of this Court under Article 227 of the Constitution of India is supervisory and corrective in nature. It need not be exercised to correct every error of law or fact. So long as this Court is satisfied with the ultimate outcome of the litigation, it would refuse to exercise the extraordinary jurisdiction under Article 227 of the Constitution of India. Reference in this regard can be made to the judgment of the Apex Court in ***Garment Craft V/s. Prakash Chand Goel*** [1] in which it is held in paragraph 15 as under:

> 15. Having heard the counsel for the parties, we are clearly of the view that the impugned order is contrary to law and cannot be sustained for

1 (2022) 4 SCC 181

> several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

17) In my view therefore though this Court does not appreciate the conduct of Respondent Nos. 2 and 3 in executing a Deed of Conveyance dated 30 March 2026, the benefit of that mistake cannot be granted in favour of the Petitioner-Society. In that view of the matter, I am not inclined to exercise jurisdiction in favour of Petitioner-Society for setting aside the order of the Competent Authority dated 15 May 2025, which ensures land division amongst the two societies as per their actual entitlements. This Court cannot be a party to the Petitioner's endeavour to grab the land meant to be conveyed to Respondent No. 3-Society.

18) It is well settled that certificate of deemed conveyance issued by Competent Authority is not final adjudication of rights and entitlements of parties in respect of the conveyed land. Reference in this regard can be made in the judgment of the Apex Court in ***Arun Kumar Shah HUF V/s Avon Arcade Premises Limited and Ors.*** [2]

2 Civl Appeal No.5377 of 2025, dated 21 April 2025

Therefore, if the Petitioner-Society is aggrieved by the area of land conveyed in its favour by order dated 15 May 2025 or by the Deed of Conveyance dated 30 March 2026, it would be at liberty to institute a suit challenging the area of land conveyed in favour of the third Respondent-Society.

19) All rights and contention of the parties on the issue of title are expressly kept open to be decided in the suit. Needless to observe that the suit, if instituted, shall be decided uninfluenced by the observations made by this Court in the order.

20) Writ Petition is accordingly **dismissed**.

**[SANDEEP V. MARNE, J.]**

NEETA SHAILESH SAWANT

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