MHTH170030522025

ORDER BELOW EXHIBIT 1 IN R.C.S. NO. 100/2025
(Anusaya Raman Sankhe and Anr. Vs. Pragati Shital CHS Ltd. and Ors.)

1. At Exh. 37, Defendants had preferred application is preferred praying that, preliminary issue be framed whether this Court has jurisdiction to grant injunction restraining execution of the order regarding deemed conveyance passed by the appropriate authority under the Maharashtra Ownership Flats Act, 1963 (MOFA). After hearing both sides, *vide* Order dated 24.04.2026, *vide* Order 14 Rule 2(2) of the Code of Civil Procedure, application was allowed and preliminary issue was framed at Exh. 52 as follows:-

> *"Whether this Court has jurisdiction to grant injunction restraining execution of the order regarding deemed conveyance passed by the appropriate authority under the Maharashtra Ownership Flats Act, 1963 (MOFA)?"*

2. No evidence is submitted by either side (pursis at Exh. 53 and 54). Heard at length Ld. Advocates Shri. R.R. Pal, Smt. Priyanka Patil for the Plaintiffs and Ld. Advocate Shri. Suraj Jagtap for the Defendants. Perused record.

3. The present suit was filed on 15.07.2025, praying for declaration of ownership of the area of 1026.41 sq. mtrs. (mentioned as suit property, page 4, para 7, line No. 3 of the plaint) or such area out of the area of 4095 sq. mtrs. in plot No. 1 of block No. 175/1/175/2A at Boisar, Palghar. Plaintiffs have also prayed that the Defendants be restrained from claiming ownership, taking possession

of, constructing over the suit property by way of permanent injunction.

4. Application for rejection of plaint (Exh. 18) came to be rejected by way of Order dated 15.11.2025 as the said application pertained to only these prayers and the question of title for declaration can be decided by Civil Court.

5. Thereafter, the order for deemed conveyance was passed on 05.12.2025 (Exh. 35/1) by the competent authority under MOFA. The said order was challenged by the Plaintiff before the Hon'ble High Court. However, the writ petition came to be rejected by order dated 02.02.2026 (Exh. 35/2). It was observed that the civil suit regarding declaration of title was pending. It may be noted here that the order of this Court rejecting application for rejection of plaint and the order of the Hon'ble High Court rejecting the challenge to order of deemed conveyance were both passed when the plaint was in its original form.

6. Thereafter, by way of application dated 12.02.2026 at Exh.30, amendment was sought to the plaint and application for interim relief was filed at Exh.32. The additional relief prayer clause 13(ए), 13(ऐ) for injunction restraining using the said order dated 05.12.2025 regarding deemed conveyance before any revenue authority or registrar or government office and not presenting the said order dated 05.12.2025 (Exh. 35/1) regarding deemed conveyance for registration before the Sub-Registrar Palghar was added. Allowing amendment does not equate to allowing a relief sought or accepting the averments made by the party. The onus of proving its case lies on the party. Post amendment, no application is preferred for rejection of plaint. However, issue is raised regarding

the jurisdiction of this Court to grant the additional prayer and the present preliminary issue (Exh. 52) was framed.

7. In the present case Ld. Advocate for the Plaintiff has submitted that, this Court has jurisdiction to grant injunction as prayed in the amended form. That, this Court has jurisdiction to decide the title. He has relied upon the judgment dated 04.11.2025 of the Hon'ble Bombay High Court in *Acme Enterprises And Anr vs Deputy Registrar Co Operative Societies* (Exh. 56/1). Ld. Advocate for the Defendants, has submitted that, the said judgment is not applicable to the present facts.

8. Ld. Advocate for Plaintiff has also relied upon the judgment in the Hon'ble Supreme Court in *Arunkumar H. Shah Huf Vs. Avon Arcade Premises Co-operative Society Limited and Ors.* [2025 0 Supreme(SC) 669] regarding MOFA and how the question of title is dealt with in a civil suit and not before the competent authority under MOFA (para 20). He has also castigated order dated 05.12.2025 of the concerned authority (DDR) under MOFA regarding deemed conveyance challenging it's validity.

9. *Per contra,* Ld. Advocate for the Defendants has submitted that, the Order dated 05.12.2025 regarding deemed conveyance was upheld and the writ petition filed by the Plaintiffs came to be dismissed by way of Order dated 02.02.2026 (Exh. 35/2). That, Civil Court may have jurisdiction to decide on the point of title. However, the plaint was amended and the additional prayer is sought. That, the deemed conveyance order by the concerned authority appointed under the specialized law of MOFA cannot be set aside or it's execution cannot be stopped by the Civil Court. It can be and was challenged before the Hon'ble High Court. That, there is

implied bar of jurisdiction of Civil Court. He has relied upon the judgment of the Hon'ble Bombay High Court in *Quantum Park Co Operative Housing vs Ahcl Pel And Ors* decided on 24 February 2026 and *Flagship Infrastructure Ltd. and Anr. vs The Competent Authority and Anr.* decided on 15 April 2025(Exh. 58/1 and 58/2). Ld. Advocate for the Plaintiff, has submitted that, the said judgments are not applicable to the present facts.

10. I have perused the said judgments. The findings in the judgments of the Hon'ble High Courts and the Hon'ble Supreme Court are most reverentially noted. Perusal of judgments also reflect that, each case has to be examined based on the facts brought forth. As per the judgment in *Arunkumar* (supra), Civil Court can decide on the point of title even if, proceeding under MOFA is pending. In *Acme* (supra), counter suits were filed between the developers and federation of housing societies regarding dispute about conveyance and developer's right for further construction. The suits were filed before the Hon'ble Bombay High Court. In those facts, at page No. 65, para No. 84, there is conclusion that, delay in construction of building would not result in loss of ownership in land meant for construction and such delay would not result in vesting of title in the federation. The statutory scheme of MOFA is explained. However, in the present case exhibits 20/10, 3/7 are pointed out and it is stated that, the construction of the building is already completed, FSI was taken and utilized for the entire area, conversion of non-agricultural use, does not differentiate the area of 1026.41 sq. mtr. i.e. suit property. The Plaintiffs with complete knowledge continue to deny the conveyance despite passage of more than a decade. Moreover, judgments in *Quantum Park* (supra) (para 26 to 30) and *Flagship*

Infrastructure Ltd. (supra) (para 16-20, 23) also bring out that the proceedings of MOFA are a special statue, the competent authority is under statutory duty to deal with the issues before itself regarding conveyance.

11. As such, on the pure question of law, admittedly, there is a competent authority appointed under the specialized law of MOFA, the order of deemed conveyance was challenged before the Hon'ble High Court. In the present case the Hon'ble Bombay High Court has refused to set aside the order of deemed conveyance. It also appears that, the plaintiffs herein were represented before the competent authority. There was gross delay in conveyance. As such, there appears to be implied bar to this Court to grant the prayer post amendment regarding which the preliminary issue is framed. Hence, the finding to the preliminary issue is in the negative. This Court does not have jurisdiction to decide prayer clause 13 ए, ऐ. The suit shall continue as regards prayer clauses prior to amendment i.e. 13 अ, आ, इ, ई, उ, ऊ. In these circumstances,

ORDER

1. The finding to the preliminary issue is in the negative.
2. This Court does not have jurisdiction to decide prayer clause 13 ए, ऐ.
3. The suit shall continue as regards prayer clauses prior to amendment i.e. 13 अ, आ, इ, ई, उ, ऊ.

PALLAVI SURYAKANT GOURI CHALKAR
Digitally signed by PALLAVI SURYAKANT GOURI CHALKAR
Date: 2026.04.29 18:27:51 +0530

(Smt. P.S.G. Chalkar)
2nd Jt. Civil Judge Junior Division,
Palghar.

Place: Palghar
Date: 29/04/2026

CERTIFICATE

I affirm that, the contents of this P.D.F. file Judgment/order are same, word to word, as per the original Judgment/order.

Name of Stenographer	---	Prathamesh D. Patane Stenographer (Gr-3)
Court	---	2nd Jt.CJJD & JMFC Palghar.
Date	---	29/04/2026
Order signed by the Presiding Officer on	---	29/04/2026
Order uploaded on	---	29/04/2026