

MHTH170030522025



ORDER BELOW EXHIBIT 37 IN R.C.S. NO. 100/2025
(Anusaya Raman Sankhe and Anr. Vs. Pragati Shital CHS Ltd. and Ors.)

1] The present 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). It is submitted that the said question is a pure question of law and needs to be tried first in view of Order 14 Rule 2 Sub Rule 2 read with Section 151 of the Code of Civil Procedure. That, the said order was passed by appropriate authority. The said order was also not set aside by the Hon'ble High Court. After the order dated 05.12.2025 regarding deemed conveyance was passed, the Plaintiff preferred application for amendment of plaint and prayed for 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 regarding deemed conveyance for registration before the Sub-Registrar Palghar. That, this Court does not have powers to grant any such prayer. Hence, it is necessary that preliminary issue be framed and tried as prayed.

2] The present Application is vehemently opposed (Exh.38) by Ld. Advocate for the Plaintiff by submitting that, the present application is filed merely delay the present case. That, the Hon'ble

High Court in order dated 02.02.2026 in writ petition No.959/2026 has observed that this Court has jurisdiction to decide the issue of title as the Plaintiff had prayed for declaration of ownership in the present suit. That, in its order dated 15.11.2025 below Exh.27 this Court had rejected the application for rejection of plaint by holding that the question of title can be decided by Civil Court and not competent authority before move the conveyance proceeding was pending. That, this Court has jurisdiction to try the present suit and also grant relief as prayed. Hence, it is prayed that the present application may be rejected and applications for interim injunction (Exhibits 5 & 32) be heard.

3] Heard Ld. Advocate Shri. Pal and Ld. Advocate Shri. Jagtap for the respective sides. Perused record.

4] The law relating to framing of issues is settled. The relevant provisions are reproduced hereinbelow for reference :-

Order XIV of the Code of Civil Procedure :-

“Settlement of issues and determination of suit on issues of law or on issues agreed upon:

1. Framing of issues.—(1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other.

(2) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence.

(3) Each material proposition affirmed by one party and denied by the other shall form the subject of distinct issue.

(4) Issues are of two kinds:

(a) issues of fact,

(b) issues of law.

(5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements if any, and after examination under rule 2 of Order X and after hearing the parties or their pleaders, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend.

(6) Nothing in this rule requires the Court to frame and record issues where the defendant at the first hearing of the suit makes no

defence.

...

2. Court to pronounce judgment on all issues.—

(1) Notwithstanding that a case may be disposed of on a preliminary issue, the Court shall, subject to the provisions of sub-rule (2), pronounce judgment on all issues.

(2) Where issues both of law and of fact arise in the same suit, and the Court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if the issue relates to—

(a) the jurisdiction of the Court, or

(b) a bar to the suit created by any law for the time being in force, and for that purpose may, if it thinks fit, postpone the settlement of the other issues until after that issue has been determined, and may deal with the suit in accordance with the decision on that issue.”

(emphasis supplied)

5] The law regarding framing of issues is very clear and the relevant law is reproduced herein above. Issues are required to be framed regarding material proposition that is asserted by one party and denied by the other party and regarding material facts which need to be adjudicated upon. A case may be disposed of on a preliminary issue of law only, it may try that issue first if the issue relates to the jurisdiction of the Court, or a bar to the suit created by any law for the time being in force.

6] The present suit was originally filed for declaration of ownership and permanent injunction restraining the Defendants from claiming ownership over the suit property or making construction. The first application for rejection of plaint came to be rejected as it pertained to only these prayers and the question of title can be decided by Civil Court. Thereafter, the order for deemed conveyance was passed on 05.12.2025 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. 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.

7] 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 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.

8] In my opinion, the question of jurisdiction now becomes more palpable in view of the new prayers sought restraining the proceeding before another authority. This, needs to be considered and adjudicated upon as a preliminary issue as it is a pure question of law and goes to the root of the matter. If this Court does not have jurisdiction to grant the final relief as prayed post amendment, this Court cannot allow or reject application for interim injunction (Exh. 32). The new facts averred will have to be proved. However, it will have to be first decided if this Court has jurisdiction to grant any such

relief. Hence, preliminary issue needs to be framed and heard upon before deciding other issues or applications. In these circumstances,

ORDER

1. Vide Order 14 Rule 2(2) of the Code of Civil Procedure, Application is allowed.
2. Preliminary issue be framed as “*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)?*”
3. Application is accordingly disposed of.
4. Costs on Applicant.

Place: Palghar
Date: 24/04/2026

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

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	---	Suraj S. Saddiwal Stenographer (Gr-3)
Court	---	2 nd Jt.CJJD & JMFC Palghar.
Date	---	24/04/2026
Order signed by the Presiding Officer on	---	24/04/2026
Order uploaded on	---	24/04/2026