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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13930 OF 2024

Maryland Apartment Co-Operative Housing Society Limited ... Petitioner

V/s.

District Deputy Registrar,
Co-operative Societies (2),
East Suburban, Mumbai and 117 others Respondents

WITH

WRIT PETITION NO. 13935 OF 2024

Maryland Apartment Co-Operative Housing Society Limited ... Petitioner

V/s.

District Deputy Registrar,
Co-operative Societies (2),
East Suburban, Mumbai and 117 others Respondents

Mr. Chetan Kapadia, Senior Advocate with Mr. Yuvraj Singh with Ms. Madhu Rani i/b One Point Legal Solutions, for the petitioner.

Mr. Hamid D. Mulla, AGP for State-respondent no.1

Mr. Prashant Chavan, Senior Advocate with Ms. Vrushali Parab i/b Mr. Mehul Shah, for respondent Nos. 5, 90 to 95, 97 to 106, 108 to 111 and 113 to 116.

Dr. Ranjit Thorat, Senior Advocate with Mr. Murari Madekar, & Mr. Sachin Kudalkar i/n M/s. Madekar and Co., for respondent no. 3 in both writ petitions.

CORAM : AMIT BORKAR, J.

RESERVED ON : MARCH 17, 2026

PRONOUNCED ON : MARCH 24, 2026

JUDGMENT:

1. Since both the present writ petitions involve common questions of law and arise out of interconnected facts, they are being heard together and are disposed of by this common judgment and order.

2. By the present proceedings under Articles 226 and 227 of the Constitution of India, the petitioner in Writ Petition No. 13930 of 2024 calls in question the order dated 31 October 2014 passed by Respondent No. 1, namely the District Deputy Registrar, Co-operative Societies (2), in Application No. 312 of 2013, whereby the petitioner's request for grant of unilateral deemed conveyance under the provisions of the Maharashtra Ownership Flats Act was rejected. Similarly, the petitioner in Writ Petition No. 13935 of 2024 challenges the order dated 18 October 2023 passed by the same authority in Application No. 54 of 2023, whereby a subsequent application seeking unilateral deemed conveyance in respect of the same property was also rejected.

3. The factual matrix giving rise to the present petitions, as set out by the petitioner, may be briefly stated. By an indenture of lease dated 16 March 1959, Respondent No. 2 granted a lease in favour of Respondent No. 3 in respect of a parcel of Government non-agricultural land together with structures standing thereon, situated at Sion-Trombay Road, Chembur, admeasuring

approximately 23,367 square yards. The property is recorded under CTS No. 1311 of Village Chembur, along with various corresponding survey and municipal identification particulars. The names of Respondent Nos. 2 and 3 are reflected in the property card as lessor and lessee respectively. Respondent No. 2 represents the original members of the Sandu family, which, with a view to developing the larger property, constituted Respondent No. 4 as a committee and internally subdivided the land into three portions, described as Portions A, B and C. Thereafter, on 14 October 1979, an agreement was executed between Respondent No. 4, acting as constituted attorney of the Sandu family, and Respondent No. 8, whereby development rights in respect of the larger property were granted to Respondent No. 8, with a further right to purchase the said property subject to agreed terms and conditions. For the purpose of development, Respondent No. 4 obtained the requisite No Objection Certificate under Section 22 of the Urban Land (Ceiling and Regulation) Act, 1976. Respondent No. 8 thereafter prepared building plans and submitted the same to the Municipal Corporation of Greater Mumbai for approval. The plans were sanctioned, and the Corporation issued the Intimation of Disapproval and Commencement Certificate. Pursuant thereto, on 29 January 1980, the Municipal Corporation issued the Commencement Certificate permitting construction of the proposed building. Respondent No. 8 commenced construction up to the first floor. Subsequently, by an agreement dated 3 May 1982, Respondent No. 8 assigned its rights, title and interest under the agreement dated 14 October 1979 to Respondent No. 9, along

with the partially constructed structure. This transfer was brought to the notice of Respondent No. 4, which raised no objection. Thereafter, on 24 May 1986, a tripartite agreement was executed between Respondent Nos. 4, 8 and 9, along with one Suhas Shridhar Pethe, whereby Respondent No. 9 was formally recognised as the developer in respect of Portions A and C. Insofar as Portion B was concerned, it was agreed that possession thereof would be handed over to Respondent No. 9 upon relocation of the factory of Respondent No. 3 and subject to fulfillment of stipulated conditions. On the same date, i.e. 24 May 1986, a power of attorney was executed in favour of Respondent No. 9, limited to Portions A and C. Thereafter, on 10 June 1986, a separate agreement was entered into between Respondent Nos. 9 and 3 in respect of Portion B, whereby Respondent No. 9 undertook to provide alternate accommodation for relocation of the factory, in consideration of which Respondent No. 3 agreed to hand over vacant possession of Portion B. Further, by a communication dated 21 November 1987, Respondent No. 9 confirmed that it would not utilise the floor space index of Portion B while developing Portions A and C. Respondent No. 9 thereafter completed construction of the building comprising ground plus three upper floors, consisting of residential flats, commercial shops and parking facilities. On 4 June 1990, the Municipal Corporation issued the Occupation Certificate in respect of the completed building. The certificate recorded approval of the building plans, built-up area statements and other relevant particulars. Agreements for sale executed in favour of flat and shop purchasers were duly stamped and

registered. In the year 1991, the petitioner society came to be registered under the provisions of the Maharashtra Co-operative Societies Act, consisting of purchasers of units in the building. Though Respondent No. 9 claimed to have fulfilled its obligations under the agreement dated 10 June 1986, possession of Portion B was not handed over by Respondent Nos. 3 and 4.

4. In these circumstances, Respondent No. 9 instituted Suit No. 1543 of 1992 before this Court seeking specific performance of the agreement dated 10 June 1986 in respect of Portion B and for consequential relief of possession. In the said suit, Respondent No. 9 took out Notice of Motion No. 1572 of 1992 seeking interim reliefs. By an order dated 13 July 1992, ad-interim relief was granted. Subsequently, by order dated 28 November 1995, this Court confirmed the injunction in terms of prayer clause (b), thereby restraining Defendant Nos. 1 to 84 from creating third-party rights in respect of the property described in Exhibit A to the plaint. It was clarified that the operation of the said order was restricted to Portion B of the larger property.

5. Thereafter, on 18 August 2013, the petitioner society filed Application No. 312 of 2013 under Section 11 of the MOFA Act before Respondent No. 1 seeking issuance of a certificate of unilateral deemed conveyance in respect of the land and building. Replies and written submissions were filed by various respondents between 12 July 2014 and 15 July 2014 opposing the said application. In opposition, the respondents relied upon the order dated 28 November 1995 and contended that, in view of the subsisting injunction and pendency of the civil suit, the application

for deemed conveyance was not maintainable. The petitioner asserts that it had no prior knowledge of the said order, as it was not a party to the suit. By order dated 31 October 2014, Respondent No. 1 rejected the petitioner's application solely on the basis of the aforesaid injunction order.

6. Thereafter, upon obtaining copies of the suit proceedings, the petitioner realised that the injunction was confined only to Portion B. The petitioner accordingly issued a legal notice dated 17 March 2023 calling upon the respondents to execute conveyance. The petitioner received replies dated 24 April 2023 and 5 May 2023 from Respondent No. 3, wherein it was contended that the petitioner was entitled only to a lease and not to conveyance. The petitioner thereafter obtained an area entitlement certificate dated 19 June 2023 from its architects, confirming its entitlement to conveyance of the land and building. The petitioner has also been regularly paying property taxes to the Municipal Corporation. On 24 July 2023, the petitioner filed Application No. 54 of 2023 seeking unilateral deemed conveyance, claiming proportionate undivided rights in the land corresponding to the constructed area. Upon receipt of the said application, Respondent No. 1 issued notices in the prescribed form and conducted hearings. Various respondents filed their affidavits-in-reply on 14 September 2023 raising objections, including on the issue of maintainability. The petitioner thereafter filed detailed affidavits-in-rejoinder on 4 October 2023 dealing with the contentions raised by the contesting respondents. After hearing the parties, Respondent No. 1 closed the matter for orders on the preliminary issue of maintainability on

5 October 2023. By the impugned order dated 18 October 2023, Respondent No. 1 rejected Application No. 54 of 2023, assigning reasons in support of such rejection. Being aggrieved thereby, the petitioner has preferred the present writ petitions.

7. Mr. Chetan Kapadia, learned Senior Advocate appearing for the petitioner, submitted that the members of the Sandu family had, inter se, constituted a private limited company in the name of Respondent No. 3 with the object of retaining control over the title of the subject land under different legal forms. It was contended that the alleged lease in favour of Respondent No. 3 was, in substance, a self-serving arrangement, as the lessor and lessee were essentially the same entities operating under different guises. According to him, such an arrangement was devised to continue ownership of the land indirectly. On this premise, it was urged that the transaction cannot be treated as a genuine lease, and consequently, the petitioner is entitled to conveyance conferring ownership rights rather than a mere leasehold interest. Learned Senior Counsel further submitted that Suit No. 1543 of 1992 pertains exclusively to Portion “B” of the larger property and involves disputed questions arising out of contractual rights, which could not have been conclusively adjudicated by Respondent No. 1 in the proceedings for deemed conveyance. He pointed out that the pleadings and proceedings of the suit, as well as the Notice of Motion, were placed before Respondent No. 1, and a plain reading thereof clearly indicates that the suit is confined to enforcement of contractual rights concerning Portion “B”. It was further emphasized that the order dated 28 November 1995 expressly

clarifies that the injunction granted therein operates only in respect of Portion “B”. Therefore, it was submitted that there was no subsisting restraint in law against grant of conveyance in respect of Portion “A” in favour of the petitioner.

8. It was further contended that the mere pendency of the suit could not have been treated as a valid or lawful ground to defeat or postpone the petitioner’s statutory entitlement under Section 11 of the Maharashtra Ownership Flats Act, read with Rule 9 of the Rules framed thereunder. According to the learned Senior Counsel, the statutory right to seek conveyance is independent and cannot be curtailed on account of a civil dispute limited to a distinct portion of the property, namely Portion “B”.

9. It was next submitted that if the reasoning adopted in the impugned order is accepted as a precedent, it would lead to serious consequences, inasmuch as any co-operative housing society could be deprived of its statutory right to conveyance merely on account of inter se disputes between landowners and developers, or between multiple developers. Such an approach, it was urged, would defeat the very object of the statutory scheme under the MOFA.

10. Learned Senior Counsel submitted that the observations made by the Competent Authority in the order dated 31 October 2014 were occasioned solely due to the petitioner’s inability, at that stage, to demonstrate that the injunction order dated 28 November 1995 was confined only to Portion “B”. It was urged that such inability cannot be held against the petitioner,

particularly when the petitioner seeks to enforce a statutory right. It was further submitted that the petitioner had no knowledge of the order dated 28 November 1995 at the relevant time and lacked the means to establish that no restraint operated upon Portion "A". The petitioner was not a party to the suit or the Notice of Motion and was unaware of the nature of the dispute between the respondents. It was also contended that the respondents had not produced the complete record of the suit, including the reliefs claimed therein, before Respondent No. 1.

11. Learned Senior Counsel submitted that the petitioner's building is constructed entirely on Portion "A" of the larger property, in respect of which no injunction or stay was ever operative. In such circumstances, Respondent No. 1 was not precluded from granting a certificate of unilateral deemed conveyance. It was urged that the case squarely warranted exercise of such power. Since the respondents failed to execute conveyance despite repeated demands, the petitioner was constrained to file a fresh application seeking deemed conveyance.

12. It was further submitted that the order dated 31 October 2014 was passed solely on the basis of the injunction order and without proper appreciation of its limited scope. Upon subsequently obtaining the relevant court records, the petitioner realised that the injunction was confined to Portion "B". It was contended that the earlier order was thus founded on a misrepresentation of facts and is liable to be treated as a nullity. On this basis, it was urged that the bar of delay or laches would not apply, and the impugned orders deserve to be quashed and set

aside.

13. Per contra, Dr. Ranjit Thorat, learned Senior Advocate appearing for Respondent No. 3, submitted that Application No. 312 of 2013 filed by the petitioner under Section 11 of the MOFA came to be rejected by Respondent No. 1 on 31 October 2014, and the said order has attained finality. It was pointed out that the petitioner did not challenge the said order for nearly ten years and accepted the same. Instead, the petitioner filed a fresh Application No. 54 of 2023 on 24 July 2023 seeking identical reliefs. The said application was also rejected by order dated 18 October 2023. It was submitted that, at the time of adjudication of the subsequent application, the earlier order dated 31 October 2014 remained operative, binding and conclusive. It was contended that the present challenge to the earlier order by filing Writ Petition No. 13930 of 2024 is an afterthought, intended to overcome the consequences of failure to challenge the order within a reasonable time. It was further submitted that Respondent No. 3 had filed an affidavit-in-reply dated 12 July 2014 in the earlier application, placing on record not only the injunction order dated 28 November 1995 but also raising several factual and legal objections. The said affidavit was duly served upon the petitioner, and therefore, the petitioner had full knowledge of the same. It was contended that the petitioner failed to controvert the said objections. It was further submitted that the order dated 31 October 2014 was passed after considering the totality of circumstances, including the pendency of litigation in respect of the larger property, and not merely on the ground of the

injunction.

14. Learned Senior Counsel submitted that the order dated 31 October 2014 continues to hold the field and has not been set aside. The petitioner did not challenge the said order for a considerable period, and the same remained binding even during the pendency of Application No. 54 of 2023. It was contended that if Respondent No. 1 had taken a view contrary to the earlier order while deciding the subsequent application, it would have resulted in conflicting decisions on the same subject matter by the same authority. It was further submitted that the total area of the property bearing CTS No. 1311 and its sub-divisions aggregates to approximately 19,535 square metres. The plinth area of the petitioner's building is about 552 square metres. Despite this, the petitioner sought deemed conveyance of a substantially larger area, namely 3,822.42 square metres in the later application and 3,989 square metres in the earlier application. It was pointed out that no explanation was offered for the variation in the claimed area. It was further submitted that Portion "A", on which the building stands, admeasures about 3,485 square metres, and the petitioner's claim exceeds even this extent, thereby indicating an inflated and untenable claim. It was lastly submitted that by virtue of the Indenture of Lease dated 16 March 1959, Respondent No. 3 is in possession of the entire larger property, including Portions "A", "B" and "C", admeasuring approximately 19,535 square metres, along with structures thereon. It was contended that the lease is in the nature of a perpetual lease, and Respondent No. 3 enjoys the status of a protected tenant under the applicable rent control

legislation. On these grounds, it was urged that the writ petitions deserve to be dismissed.

REASONS AND ANALYSIS:

15. I have heard the learned Senior Advocates for the parties and have carefully gone through the record. The controversy is narrow in form, but the consequences are wide. The petitioner seeks unilateral deemed conveyance in respect of the land and building. The respondents resist the claim by pointing out the long delay in challenging the first rejection, the finality of the earlier order, and the nature of the disputes already pending between the parties. After considering the matter in full, I find that Writ Petition No. 13930 of 2024 must fail on the ground of laches, and Writ Petition No. 13935 of 2024 must fail on the ground of res judicata. The petitioner, however, shall have liberty to pursue its remedy before the competent civil court, if so advised, in accordance with law.

16. According to the petitioner, the building in which the members are residing is constructed only on Portion "A" of the larger property. It is further pointed out that the order dated 28 November 1995, passed in the civil suit, was not for the entire land but was limited only to Portion "B". From this, the petitioner argues that the Competent Authority made a mistake when it rejected the application on 31 October 2014 by treating the injunction as if it covered the whole property.

17. In facts of the case, the Court has to examine the conduct of the petitioner. whether the petitioner approached the Court within

a reasonable time, and whether after an order has become final, the same issue can again be brought before the authority by filing another application. These aspects cannot be ignored, even if some merit is found in the petitioner's submission.

18. Coming to Writ Petition No. 13930 of 2024, the position becomes more clear. The petitioner is challenging an order which was passed on 31 October 2014 in Application No. 312 of 2013. That order remained unchallenged for almost ten years. During this long period, the petitioner did not take any steps to question it. It is difficult to accept that the petitioner had no knowledge about the rejection, because the order was passed in its own application. There is also no material to show that the petitioner was prevented by any sufficient cause or legal difficulty from approaching the Court earlier. The explanation now given is that only later the petitioner obtained copies of the suit papers and then understood that the injunction was only for Portion "B". Even if this explanation is taken at face value, it still leaves a gap. It does not explain why the petitioner remained inactive for such a long duration. A person who claims a statutory right is expected to act with some urgency. Waiting for years together and then approaching the Court disturbs the balance, because the other side proceeds on the footing that the matter has attained finality.

19. The principle of laches, in this context, is not some rigid or technical rule. If a party allows an order to remain unchallenged for years, and during that time the other side adjusts its position on the basis of that order, then it would be unfair to reopen the issue after a long delay. Courts, therefore, expect that a person

must come within a reasonable time. In the present case, the petitioner had the rejection order since 2014. It did not challenge it. Instead, it chose to file another application in the year 2023. That later step cannot wipe out the earlier inaction. The delay is too long and not properly explained. Therefore, the present challenge to the 2014 order is clearly belated. It falls within the mischief of delay and laches.

20. The petitioner has also tried to argue that the earlier order was based on misrepresentation, as the true scope of the injunction was not properly brought on record. But even this argument does not improve the situation. Even if the petitioner later came to know certain facts in a better manner, that by itself cannot revive a challenge which had become stale over time. The law does not favour a party who first accepts an order by remaining silent, then takes a second chance by filing a fresh application, and only after failing there, comes back to challenge the old order. Such conduct shows lack of diligence. It weakens the claim for relief under Article 226, which is always discretionary in nature. For these reasons, this Court is of the clear view that Writ Petition No. 13930 of 2024 cannot be entertained and deserves to be dismissed on the ground of laches alone.

21. The position in Writ Petition No.13935 of 2024 appears slightly different on the surface, but when it is examined carefully, it is in substance the same as the earlier situation. Here, the petitioner again approached the Competent Authority by filing Application No. 54 of 2023. In that application, the relief which was claimed was essentially the same as what was earlier asked in

Application No. 312 of 2013. The prayer was again for unilateral deemed conveyance of the same land and building. The foundation of the claim did not change in any meaningful manner. The parties involved also remained the same in substance. Therefore, even though the application number and the year were different, the core dispute continued to be identical.

22. Once an application on the same issue has been decided, and that decision has reached finality because it was not challenged in time, the law does not permit the same party to come again before the same authority and ask for the same relief on the same set of facts. If such a course is allowed, there will be no end to litigation. A party can keep filing repeated applications until it gets a favourable order. That is not how the legal system works. Finality of decisions is an important part of justice. It gives certainty and stability to legal relations. In the present case, after the order dated 31 October 2014 was passed, the matter stood concluded at that level. The petitioner could not have bypassed that position by simply filing a fresh application in the year 2023.

23. *In Faime Makers Private Ltd.* v. *District Deputy Registrar*, (2025) 5 SCC 772 the Supreme Court in the context of applicability of Section 11 of CPC to MOFA proceedings under Section 11 has reiterated two important points. First, findings of a quasi judicial body cannot be reopened in a collateral manner or in a second round between the same parties. Second, even if the earlier decision contains an error of fact or law, it still binds unless it is set aside by a higher forum. A coordinate or successor authority cannot simply take a different view on the same issue.

In the present case, these conditions are clearly satisfied. The earlier application was decided. The relief of deemed conveyance was refused. The petitioner did not challenge that decision in time. Therefore, the same issue cannot be raised again in another application.

24. When the petitioner filed Application No. 54 of 2023, it was, in effect, trying to reopen the same controversy which had already been concluded in 2014. This is not permissible in law. The bar meant to prevent repeated and unnecessary litigation. Filing a second application on the same facts is not an acceptable substitute. Therefore, the second application itself was not maintainable. Once that is so, the order dated 18 October 2023, by which the Competent Authority rejected Application No. 54 of 2023, cannot be said to be incorrect on this ground. The authority could not have ignored the earlier final order and proceeded to grant the same relief again. Doing so would have resulted in conflicting decisions on the same issue. Hence, the rejection of the second application does not call for interference.

25. Learned Senior Advocate for the petitioner has strongly argued that the earlier rejection order was based on a wrong understanding of the injunction order passed in the civil suit, and therefore such an order should not bind the petitioner at all. This submission, if it had been raised at the proper time, would have required serious consideration. Because if an authority proceeds on a misunderstanding of a court order, then such an error can affect the entire decision. However, the difficulty for the petitioner is not only about correctness of the earlier order, but about the manner

in which the petitioner has acted thereafter. Once the order dated 31 October 2014 was passed, the petitioner allowed it to remain unchallenged for many years. During this long period, the order gained finality. In such a situation, the petitioner cannot avoid the effect of that order by simply filing another application and asking the authority to reconsider the same issue again. Law does not permit such indirect method.

26. At the same time, it is necessary to observe that the petitioner's grievance is not entirely without substance. The dispute between the parties involves questions about the larger property, the nature of the lease, the internal arrangements between the parties, the development rights, and also the exact effect of the injunction order passed in the civil suit. These are not issues which can be decided only on the basis of limited material placed before the Competent Authority. Such questions may require detailed evidence, examination of documents, and proper trial. Proceedings under the MOFA are summary in nature and are not always suitable for deciding complicated questions of title and competing rights between several parties. Therefore, while rejecting the present writ petitions, it cannot be said that the petitioner has no remedy at all.

27. For this reason, the dismissal of these writ petitions should be understood in its proper context. The petitioner is not denied relief because its claim is wholly untenable. The petitions are dismissed because of the manner in which the remedies have been pursued. The first writ petition fails because there is long and unexplained delay in challenging the earlier order. The second writ

petition fails because the same issue had already been finally decided and cannot be reopened by filing a fresh application. If the petitioner still believes that it has a valid claim in law, the proper course is to approach the civil court, where all issues relating to title, rights and obligations can be examined in detail.

28. In view of the foregoing discussion, the following order is passed:

(i) Writ Petition No. 13930 of 2024 is dismissed;

(ii) Writ Petition No. 13935 of 2024 is also dismissed;

(iii) It is clarified that this Court has not examined the merits of the rival claims of title and entitlement in detail. The petitioner is at liberty to institute appropriate civil proceedings for adjudication of its rights, if so advised, in accordance with law;

(iv) All contentions of the parties in that regard are kept open;

(v) There shall be no order as to costs.

(AMIT BORKAR, J.)