

A declaration of ownership cannot be sustained where the plaintiff lacks valid title, and a decree for conveyance cannot be granted in the absence of specific pleadings and prayer seeking such relief in view of the proviso to Section 34 of the Specific Relief Act, 1963

The **Bombay High Court** in the case of **Waman Narayan Bhawe vs Dev Bappa Cooperative Housing Society [Second Appeal No. 425 of 2003] dated June 08, 2026**, has reaffirmed that a court cannot grant relief of conveyance or specific performance where the suit is framed only as one for declaration of title and the plaintiff has omitted to seek further substantive relief. The Court held that such a course is barred by the proviso to Section 34 of the Specific Relief Act, 1963, particularly where the plaintiff had the opportunity to seek conveyance but did not pursue it.

The High Court clarified that where a suit is framed solely for declaration of title, and the plaintiff is able to seek further relief such as conveyance or specific performance but omits to do so, the court cannot grant such omitted relief indirectly, particularly in view of the proviso to Section 34 of the Specific Relief Act, 1963. A declaration of ownership cannot be sustained where the plaintiff lacks valid title, and a decree for conveyance cannot be granted in the absence of specific pleadings and prayer seeking such relief. Relief founded on Maharashtra Ownership Flats Act (MOFA) cannot be awarded beyond the pleadings merely because the facts may suggest a promoter's obligation to convey.

The High Court observed that the plaint, on a plain reading, contained only a prayer for declaration of ownership and did not disclose pleadings or cause of action for seeking conveyance under MOFA. The society's case as pleaded was that it already was the owner of the land and building, and therefore sought only declaratory relief. The Court noted that there was no dispute that the defendant was the owner of the land, while the members claimed rights in their respective flats only under unregistered documents. It therefore held that the trial court had misread one flat agreement as creating entitlement in the society to seek conveyance under MOFA.

The Court further observed that both courts had effectively granted a decree for specific performance or conveyance on the basis of MOFA, despite there being neither pleadings nor prayer for such relief. It stressed that the first appellate court's reasoning was entirely founded on the society's supposed entitlement to conveyance under MOFA, even though that relief had never been properly pursued in the suit. The Court also attached significance to the fact that the society had withdrawn its amendment seeking to add a prayer for conveyance, and therefore had abandoned that relief. In that situation, the courts below could not grant declaratory relief and, at the same time, direct conveyance of title.