IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9646 OF 2021

Lunkad Sky Lounge Co-operative
Housing Society Ltd. .....PETITIONER

: VERSUS :

M/s. Lunkad Sky Lounge Joint
Venture & Anr. ....RESPONDENTS

Mr. Tejas D. Deshmukh with Mr. Ronak Utagikar and Mr. Onkar Somvanshi, for the Petitioner.

CORAM : SANDEEP V. MARNE, J.

DATED : 24 DECEMBER 2025.

P.C :

1) The Petitioner challenges order dated 18 December 2018 passed by the District Deputy Registrar, Co-operative Societies and Competent Authority, Pune City conveying land admeasuring 15,685.95 sq.mtrs and constructed building admeasuring 22,443.52 sq.mtrs. Petitioner is aggrieved by non-conveyance of entire land admeasuring 20,449.10 sq.mtrs and has accordingly filed the present petition.

2) I have heard Mr. Deshmukh, the learned Counsel appearing for the Petitioner. Court notice was served on the

Respondent No.1 who has chosen not to appear before the Court. By order dated 14 July 2025, this Court permitted impleadment of Respondent No.3 who is the transferee-developer and in control of commercial building in the layout.

3) Mr.Deshmukh tenders on record Affidavit of service dated 25 August 2025 which indicates that private notice of the petition was dispatched to Respondent Nos.3A and 3B on 30 July 2025 and the same is received by them. However, none have chosen to appear. Considering the nature of order that I propose to pass in the petition, it is not considered necessary to await appearance on behalf of Respondent No.3 any further. Petitioner's prayer for conveyance of entire land admeasuring 20,449.10 sq.mtrs is misconceived and cannot be granted. Though in the initial plan of 2004 only residential buildings A to F in the entire plot of land were proposed to be constructed and though in majority of agreements executed under Section 4 of Maharashtra Ownership of Flats Act, 1963 **(MOFA Act)**, the land agreed to be conveyed to collective body of the flat purchasers was 20,449.10 sq.mtrs, it appears that the Developer amended the plans on 20 July 2013 and sanction of commercial buildings with amenities was granted by the Planning Authority. The commercial building with amenities comprises of construction admeasuring 6332.08 sq.mtrs. Petitioner-Society did not seek to injunct Respondent-Developer from constructing the commercial building. The commercial building is now complete. In that view of the matter, there needs to be proportionate division of land admeasuring 20,449.10 sq.mtrs.

4) It appears that the Competent Authority has adopted the methodology of proportionate division of land admeasuring 20,449.10 sq.mtrs. However, the Competent Authority has blindly

relied on Architect Certificate dated 21 February 2017. I have perused the Architect Certificate dated 21 February 2017 which is clearly faulty. The said Certificate does not contain any computation of proportionate division of plot between Petitioner-Society and office building in proportion to built up area **(BUA)** sanctioned for construction of their respective buildings. From Plan dated 20 July 2017, it is clear that the total BUA in respect of the entire plot is 28,775.60 sq.mtrs, out of which BUA admeasuring 22,443.52 sq.mtrs is for Petitioner's buildings, whereas, BUA 6332.08 sq.mtrs is for the office building. Therefore, total land admeasuring 20,449.10 sq.mtrs needs to be divided in proportion to the BUA sanctioned for building of the Society and the office building. Since the Architect did not conduct this exercise, the Competent Authority has proceeded to convey land admeasuring 15,685.95 sq.mtrs in favour of the Petitioner, which appears to be erroneous. In my view therefore, the proceedings deserve to be remanded before the Competent Authority for recomputing the proportionate land entitlement of the Petitioner-Society based on BUA sanctioned for construction of its building.

5) Consequently, the order dated 18 December 2018 passed by the Competent Authority is set aside. The proceedings bearing D.C.No.1003550/2017 are remanded before the Competent Authority who shall proceed to pass a fresh order after considering the Certificate of the Architect. Petitioner, as well as Respondent Nos.1/3 shall be at liberty to rely on their own Architect Certificate, for the purpose of indicating the correct land area entitlement based on BUA sanctioned for various buildings. Petitioners shall appear before the Competent Authority alongwith copy of this Court on 12 January 2026. The Competent Authority shall issue notice to

Respondent Nos.1/3 and thereafter proceed to decide the proceedings afresh in accordance with law. It is clarified that the proceedings are remanded only for the purpose of determination of correct land entitlement proportionate to the BUA consumed for buildings of the Society and the office building and the Competent Authority shall not venture to go into any other aspect in the remanded proceedings. The remanded proceedings shall be decided by the Competent Authority, as expeditiously as possible, preferably by 30 April 2026.

6) With the above directions, the petition is **partly allowed and disposed of.** There shall be no order as to costs.

NEETA SHAILESH SAWANT
Digitally signed by NEETA SHAILESH SAWANT
Date: 2025.12.24 17:49:22 +0530

[SANDEEP V. MARNE, J.]