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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2505 OF 2025

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Shree Krupa Residency Private Limited
Through Directors & Ors. ... Petitioners

V/s.

The Competent Authority & District
Deputy Registrar Cooperative Societies,
Thane & Anr. ... Respondents

Mr. Rohit D. Joshi for the petitioners.

Mr. P. G. Sawant, AGP for the State-respondent No.1.

Mr. Sachin Thorat with Ms. Dnyaneshwari Utpat for
respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : MARCH 18, 2025

P.C.:

1. The present writ petition assails the legality and propriety of the order passed by the competent authority under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (hereinafter referred to as "MOFA Act"), whereby deemed conveyance has been granted in favour of the association of purchasers who have registered a society under the provisions of the Maharashtra Cooperative Societies Act, 1960. The petitioners contend that the impugned order has been passed in violation of

the principles of natural justice and without granting them an adequate opportunity of being heard.

2. Upon perusal of the record, it transpires that during the Covid-19 pandemic, the hearing of the matter was initially scheduled on 17th March 2020. However, in light of the nationwide lockdown declared on 24th March 2020, the proceedings were impacted. Subsequently, a public notice was published in a newspaper on 30th July 2020, notifying the next date of hearing. The petitioners have asserted that they were unable to remain present due to the prevailing restrictions and the lack of direct communication from the competent authority.

3. Learned counsel for the petitioners has contended that during the Covid-19 period, the competent authority was under a heightened obligation to ensure that proper notice was served upon all concerned parties, including the developer and owner, before proceeding further in the matter. It is submitted that the agreements executed between the parties conferred certain rights upon the petitioners, which necessitated adjudication by the competent authority. The failure to consider these rights, according to the petitioners, has resulted in serious legal prejudice. Therefore, the petitioners ought to have been afforded an opportunity to put forth their case effectively before any order of deemed conveyance was passed.

4. At this juncture, learned counsel for respondent No.2-Society has drawn my attention to the photographs annexed with the affidavit-in-reply, which prima facie indicate that the area beneath

the building in question has been blocked by the developer. This assertion suggests that the developer may have exercised control over the common areas in a manner that could potentially infringe upon the rights of the members of the society.

5. In response, Mr. Joshi, learned counsel for the petitioners, has stated that the developer shall not obstruct the members of the society from utilizing the area below the building for any other permissible purpose.

6. Considering the fact that the impugned order has been passed without affording the petitioners a fair opportunity of hearing, it is evident that the principles of natural justice have been violated. The right to be heard is a fundamental tenet of procedural fairness, and any order passed in derogation thereof cannot be sustained in the eyes of law. In view thereof, the impugned order passed by the competent authority is liable to be quashed and set aside. Accordingly, the same stands quashed and set aside.

7. The proceedings are hereby restored before the competent authority for fresh adjudication.

8. The parties are directed to remain present before the competent authority on 25th March 2025 at 10:30 a.m. The competent authority shall permit the petitioners to file their reply, and further allow them to make submissions as are permissible in law.

9. The competent authority shall, after granting adequate opportunity to all concerned parties, decide the proceedings under

Section 11 of the MOFA Act in accordance with law, preferably within a period of three months from the date of appearance of the parties.

10. In view of the aforesaid directions, the writ petition stands disposed of. There shall be no order as to costs.

11. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)