



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.15014 OF 2025**

M/s. A.K.Brothers and Ors. ... Petitioners
versus
District Dy. Rlegistrar, Co-op. Society & Ors. ... Respondents

Mr. Kevin Pereira for Petitioners.
Ms. Nisha Mehra, AGP for State.

**CORAM: N.J.JAMADAR, J.
DATE : 9 DECEMBER 2025**

P.C.

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to an order dated 10 March 2022 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 (MOFA, 1963).
3. Learned Counsel for the Petitioners submitted that in the agreement under Section 4 of the MOFA, the then prospective purchasers have agreed for the retention of the part of the subject premises by the owner/promoter. In fact, the Petitioner No.1 had instituted L.C.Suit No.2275 of 2021 before the City Civil Court seeking reliefs, inter alia, to restrain the society from seeking deemed conveyance in respect of the subject premises. Yet, the Competent Authority has granted a deemed conveyance.
4. From the perusal of the impugned order, it becomes evident that the

Competent Authority was alive to the fact that the civil suit has been instituted by the Petitioner No.1. In paragraph No.16(c) of the impugned order, after noting the said fact, the Competent Authority observed that if any adverse orders are passed in the said suit, the order passed by the Competent Authority would be subject to the outcome of the said suit.

5. It is well recognized that, mere pendency of a suit does not denude the Competent Authority the power to grant certificate of unilateral deemed conveyance. It is equally well settled that the grant of certificate under Section 11 of the MOFA does not preclude the aggrieved party from filing a suit asserting title. In the case of **Arunkumar H Shah HUF vs Avon Arcade Premises Co-operative Society Limited and Ors.**¹, the Supreme Court gave its imprimatur to the aforesaid proposition by observing that, the Competent Authority cannot conclusively and finally decide the question of title. Therefore, notwithstanding the order under sub-section (4) of Section 11 of the MOFA, the aggrieved parties can always maintain a civil suit for establishing their rights.

6. In view of the aforesaid enunciation of law, and having regard to the fact that the Petitioner has already instituted a substantive suit, all the issues which are sought to be agitated in this Petition with regard to the entitlement of the society to have conveyance in respect of a particular portion of the

¹ (2025) 7 SCC 249.

subject premises can be legitimately agitated in the said suit. Thus, this Court does not find any reason to entertain the Petition.

7. The Writ Petition stands disposed.

8. It is clarified that the disposal of this Petition will not come in the way of the Petitioner in agitating the points raised in this Petition, in the pending suit.

(N.J.JAMADAR, J.)