

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10215 OF 2024

Janta Housing Private Limited

...Petitioner

Versus

State Of Maharashtra And Ors.

...Respondents

Mr. Rushabh Sheth, Counsel, a/w Mansi Jain, i/b Samatva Legal Associates, for the Petitioner.

Ms. Soni Patel, a/w Divya Tyagi, Neha Shaikh, for Respondent No.3.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : NOVEMBER 12, 2025

ORDER :

1. After the matter was heard for some time, it is evident that the case in hand is near identical to the Writ Petitions filed by the very same Petitioner in respect of two other parcels of land forming part of the same larger parcel of 1,99,360 square metres of land to which the Petitioner claims to be entitled. Two different Learned Single Judges of this Court had occasion to render a finding that non-issuance of a notice to the Petitioner in the deemed conveyance proceedings under Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("**MOFA**") has not caused such prejudice as would warrant an intervention under

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Article 226 of the Constitution of India. A challenge to one of them has not been entertained by the Supreme Court.

2. Leaving the furtherance of its rights in appropriate civil proceedings open, in particular, the following extracts from order the dated May 2, 2025 in Writ Petition No.3541 of 2023 would be instructive.

3. After the formation of the society, as per the law, it becomes the responsibility of the promoter to execute a proper conveyance deed in favour of the society—unless there exists a specific contract stating otherwise. However, since respondent No.4 failed to do so, respondent No.3 (the society) filed an application under Section 11 of MOFA, seeking unilateral deemed conveyance.

4. By order dated 28th April 2014, the Competent Authority allowed the said application and directed conveyance of the property in favour of respondent No.3/society. The present writ petition is filed by the petitioner, who claims to be the original owner and head promoter, challenging the legality of that order.

8. Upon careful examination of the documents on record, it is clear that the development agreement dated 15th February 1989, executed by the petitioner in favour of respondent No.4, granted full rights to respondent No.4 to sell flats, receive consideration, and execute sale deeds in favour of flat purchasers. It is in exercise of these rights that respondent No.4 undertook the construction of the buildings and entered into agreements with individual purchasers under Section 4 of MOFA, thereby creating statutory obligations. As per the provisions of Section 4 and Rule 9 of the MOFA Rules, once a society is formed by flat purchasers, the promoter is duty-bound to execute a conveyance deed in favour of the society. In the

present case, it is not disputed that respondent No.3/society was registered on 19th October 1992, and, therefore, a legal obligation arose on the part of respondent No.4 to convey the land and building to the society. Since the promoter failed to do so, respondent No.3 rightfully applied for a deemed conveyance under Section 11 of MOFA, and the Competent Authority passed the impugned order recognising such statutory right.

9. The contention raised by the petitioner that he is a "promoter" under Section 2(c) of MOFA appears prima facie valid. However, the main issue is whether non-issuance of notice or opportunity of hearing to the petitioner amounts to such a serious breach of natural justice that it requires the interference of this Court under Article 226 of the Constitution.

10. In my view, Section 11 of MOFA provides for a summary mechanism to facilitate conveyance in favour of the society, and the object of the Act is clearly welfare-oriented—to protect flat purchasers and ensure they receive proper title. Therefore, even if there was a technical breach of natural justice, the same cannot be a ground to set aside the order unless actual and specific legal prejudice is shown to have been caused to the petitioner. The petitioner's concern that more land or rights than what was due have been conveyed to respondent No.3 can be addressed by filing a civil suit. Thus, no interference is warranted in writ jurisdiction merely on account of procedural irregularity.

[Emphasis Supplied]

3. This case falls squarely within the same parameters. No useful purpose would be served entertaining the Petition any further in view of the issue being squarely covered already. The order dated December 19, 2023 passed by another Learned Single Judge on similar lines was carried higher before the Supreme Court in Special Leave to

Appeal (C) No.19250 of 2024 wherein Supreme Court declined to interfere with the views expressed in the said order.

4. In these circumstances, this Petition is disposed of in identical terms leaving it open to the Petitioner to pursue such civil remedies as may be available to him in accordance with law. Therefore, the Petition is *dismissed* in the aforesaid terms.

5. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]