



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9413 OF 2025**

Shri Shivam Co-operative Housing Society Ltd.
A Society registered under the provisions of
Maharashtra Co-operative Societies Act, 1960,
under Registration No.BOM/HSG/272 of 1962
dated 28/12/1962 and having its office at
185-A, S.V.Road, Vile Parle (West),
Mumbai – 400 056.

... Petitioner

versus

1. Vileparle Co-operative Housing Society Ltd., a Co-operative Housing Society registered under the provisions of Maharashtra Co-operative Societies Act, 1960, under Registration No.BOM/HSG.5385 of 1978 dt. 18/04/1978 and having its office at 185-A, S.V.Road, Vile Parle (West), Mumbai – 400 056.
 2. Mr. Shashikant Kuberbhai Patel (Promoter), an Adult, of Mumbai, Indian Inhabitant, having address at Bombay Mutual Annex, Gunbow Street, Bombay.
 3. Mr. Kalidas Amarsi Khimji (land Owner), an adult, of Mumba, Indian Inhabitant having address at Plot No.3, Vasundhara Jai Hind Society, N.S.Road, 12, J.V.P.D. Vile Parle (West), Mumbai – 400 049.
 4. District Deputy Registrar,
Co-operative Societies Mumbai City (3),
Competent Authority, MHADA Building,
Ground Floor, Room No.69, Bandra
(East), Mumbai – 400 051.
- ... Respondents

Mr. Ashish Kamat, Sr. Advocate with Mr. Rubin Vakil, Mr. Maulik Tanna, Mr. Krupesh Bhosale, Ms. Shrushti Bhatuse, for Petitioner.
Mr. Vishal Kanade with Ms. Vishaki Bhatia, for Respondent No.1.
Mrs. V.R.Raje, AGP for State.

CORAM: N.J.JAMADAR, J.

RESERVED ON : 7 OCTOBER 2025
PRONOUNCED ON : 11 NOVEMBER 2025

JUDGMENT :

1. Rule. Rule made returnable forthwith, and, with the consent of the parties, heard finally.
2. This Petition under Article 227 of the Constitution of India calls in question the legality, propriety and correctness of an order dated 6 May 2025 passed by the District Deputy Registrar and Competent Authority (R4), thereby issuing a Corrigendum to an order dated 5 July 2022 passed by the Competent Authority, granting a Certificate of Unilateral Deemed Conveyance under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (MOFA), to the extent of correcting the area of the land to be conveyed from 738.80 sq. mtrs. to 823.72 sq. mtrs., out of land bearing CTS No.974, 974/1, 974/2 and 972 situated at Village Vileparle, Taluka Andheri, Mumbai Suburban District (the subject premises).
3. The background facts necessary for the determination of this Petition can be stated, in brief, as under :

3.1 Respondent No.3 was the owner of the properties bearing Survey Nos.974, 974/1 and 974/2. Respondent No.3 entered into a development agreement with the Respondent No.2. The latter constructed buildings on the said properties and executed agreements for sale of the flats therein in favour of the flat purchasers. Eventually, the flat purchasers formed the Respondent No.1 Society. It was registered on 18 April 1978.

3.2 Respondent No.2 – Promoter and Respondent No.3 – owner, committed default in their statutory obligation to convey their right, title and interest in the lands and buildings in favour of the Respondent No.1 Society in accordance with the provisions contained in MOFA and the rules thereunder. Respondent No.1, thus, filed an application being Application No.60 of 2022 before the Competent Authority under Section 11 of the MOFA, for grant of a certificate of Unilateral Deemed Conveyance.

3.3 In the said application, the Competent Authority issued notices to the Promoter and owner. None appeared for the Respondent Nos.2 and 3. After appraisal of the averments in the application and the documents annexed thereto and the material on record, the Competent Authority came to the conclusion that the promoter and owner had committed default in the discharge of their statutory obligations, and, therefore, by an order dated 5 July 2022, granted a Certificate of Unilateral Deemed Conveyance in respect of the land admeasuring 738.80 sq. mtrs., and the buildings standing thereon,

out of Survey No.974, 974/1, 974/2.

3.4 It appears that the Respondent No.1 realized that there was some discrepancy as regards the area of the land which was ordered to be conveyed to the Respondent No.1 Society. In the property card, the area was shown 738.80 sq. mtrs., whereas the sanctioned building plan indicated that the area of the lands on which the building stood was 823.72 sq. mtrs. Reference was made to the approved building plan and the copy of the lease deed in respect of the lands bearing Survey No.185/A, Hissa No.1 Part and 185A/2A Part, to which subsequently, CTS Numbers were given. Hence, an application was filed for the issue of Corrigendum so as to correct the area of the land to 823.72 sq. mtrs.

3.5 In the said application, an amendment was sought so as to include an area admeasuring 84.92 sq. mtrs., out of CTS No.972, over which the buildings of the Petitioner's Society have been constructed. By an order dated 23 December 2024, the Competent Authority disposed of the said first application for issue of Corrigendum along with the application for amendment therein, on the ground that the requisite documents were not annexed with the said applications, albiet with liberty to file a fresh application along with the necessary documents.

3.6 On 16 January 2025, Respondent No.1 Society filed the second application with the assertions that the Respondent No.1 Society was entitled

to conveyance in respect of 84.92 sq. mtrs., land out of CTS No.972 as well, apart from the area admeasuring 738.80 sq. mtrs., covered by CTS Nos.974, 974/1, 974/2. Since the name of the Petitioner was shown in the property card of CTS No.972, the Petitioner was impleaded as party Respondent to the said Application. It was averred that the certificate of deemed conveyance issued by the Competent Authority, pursuant to order dated 5 July 2022, did not take into account the area shown in the BMC approved plan, i.e. 985.20 sq. yards equivalent to 823.72 sq. mtrs. Reliance was also placed on an Architect's Certificate dated 5 October 2024 opining that the area to be considered for conveyance in favour of the Respondent No.1 would be 823.72 sq. mtrs., as per the BMC approved plan.

3.7 The Petitioner resisted the application. It was, inter alia, contended that the promoter and owner of the lands over which the buildings of Respondent No.1 stood had no concern whatsoever with CTS No.972. The Petitioner was exclusively entitled to the entire area of CTS No.972. The claim over the portion of CTS No.972 was actuated by malice.

3.8 After hearing the parties, by the impugned order, the Competent Authority was persuaded to issue a Corrigendum. The Competent Authority was of the view that in the approved building plan, the area of the land over which the buildings of the Respondent No.1 society were constructed was shown 823.72 sq. mtrs. However, the total area of CTS No.974, 974/1 and

974/2 admeasure 738.80 sq. mtrs. Though the area of CTS No.972 as per the property card was shown 1171.80 sq.mtrs., there was an entry in the other rights column that the Petitioner society had only a right of way over the area admeasuring 115/7/9 sq.yards. It was noted that the total area of three CTS Nos.972, 972/1 and 972/2 was 1434.60 sq. mtrs., but under an Indenture dated 31 January 1963, only an area of 1337.79 sq. mtrs., was conveyed to the Petitioners' Society, and, resultantly, Respondent No.1 Society was entitled to the remainder area. Thus, the impugned Corrigendum was issued to the Certificate dated 5 July 2022 so as to correct the area of the land to be conveyed from 738.80 sq. mtrs., to 823.72 sq. mtrs.

3.9 Being aggrieved, the Petitioner has invoked the writ jurisdiction on the count that the impugned order is clearly in transgression of the jurisdiction vested in the Competent Authority, in as much as the Competent Authority has no power to review its own order and the Corrigendum, in question, is in the nature of a substantive review. Even on the merits of the matter, the Competent Authority has misconstrued the import of the documents and arrived at wrong findings.

3.10 An affidavit in reply has been filed on behalf of Respondent No.1 controverting the assertions of the Petitioner.

4. In the wake of the aforesaid facts and pleadings, I have heard Mr. Ashish Kamat, learned Senior Advocate for the Petitioner, Mr. Vishal Kanade,

learned Counsel for Respondent No.1 Society and Mrs. Raje, learned AGP for the Respondent No.4. Learned Counsel took the Court through the pleadings and material on record.

5. Mr. Kamat, learned Senior Advocate for the Petitioner would submit that the Competent Authority has not only exceeded the jurisdictional limits in the matter of issue of Corrigendum to the Certificate of Unilateral Deemed Conveyance, but also completely misconstrued the ratio in the case of **Kashish Park Reality Pvt. Ltd. And Anr. V/s. State of Maharashtra and Ors.**¹, wherein this Court has underscored the jurisdictional limits of the Competent Authority in the matter of review. Mr. Kamat would urge that the Competent Authority harboured a patently incorrect impression that, if the aggrieved party is heard, the Competent Authority gets jurisdiction to have a substantive review of the matter which has been concluded by an earlier order.

6. Amplifying the aforesaid submissions, Mr. Kamat would urge, the Competent Authority has no power to review its own order. It is well settled that review is a matter of creature of statute. In the absence of any authority to review the order, the Competent Authority could not have proceeded to review the order dated 5 July 2022, which causes serious prejudice to a party, who was even not a party to the main application. It is this principle which

1 2021(3) Mh.L.J. 778

was succinctly expounded by this Court in the case of **Kashish Park Reality Pvt. Ltd. and Anr. (supra)**, and which the Competent Authority has completely misconstrued. On this count alone, according to Mr. Kamat, the impugned order deserves to be quashed and set aside.

7. As a second limb of the aforesaid submission, Mr. Kamat would urge, the Competent Authority once having disposed first application for Corrigendum on the ground that there was no supporting material, could not have entertained a second application on the same cause of action on the self-same material.

8. Thirdly, Mr. Kamat submitted with tenacity that, the Competent Authority could not have embarked upon an inquiry into the substantive rights of the parties under the guise of issue of a Corrigendum. A bare perusal of the impugned order, according to Mr. Kamat, would indicate that the Competent Authority has virtually adjudicated the proprietary interest of the parties in relation to the additional area of land which was ordered to be conveyed in favour of the Respondent No.1 Society. In fact, there was no jural relationship between the Petitioner and the Respondent No.1 Society, and, consequently, there was no statutory obligation upon the Petitioner which could have been enforced by invoking the provisions contained in Section 11 of the MOFA, qua the petitioners.

9. Per contra, Mr. Vishal Kanade, learned Counsel for Respondent No.1

supported the impugned order. It was submitted that the review in question was in the nature of corrections of an inadvertent error and not a substantive review as was sought to be canvassed on behalf of the Petitioner. Mr. Kanade strenuously urged that the Respondent No.1 had indeed placed on record of the Competent Authority along with the Application No.60 of 2022 all the relevant documents, including the property cards, IOD dated 26 April 1972, commencement certificate and the occupation certificate, which indicated that the Respondent No.1 was entitled to an area of 823.80 sq. mtrs. Yet, the Competent Authority had granted a certificate of Unilateral Deemed Conveyance only in respect of the lands bearing Survey Nos.974, 974/1 and 974/2 aggregating to 738.80 sq. mtrs. It was this inadvertent mistake which was corrected by the Competent Authority by issuing a Corrigendum.

10. Mr. Kanade by placing reliance on the observations in paragraph Nos.12 and 15 of the decision in the case of **Kashish Park Reality Pvt. Ltd. and Anr. (supra)**, submitted that, it is not the rule that under no circumstances, Corrigendum can be issued by the Competent Authority. If it could be demonstrated that what was done by the Competent Authority was a correction of the inadvertent mistake, then the challenge to the order of issue of Corrigendum loses substance, submitted Mr. Kanade.

11. Laying emphasis on the copies of the property card and the sanctioned building plan, Mr. Kanade would urge that the Competent Authority had

merely corrected an error in the area of the land ordered to be conveyed to the Respondent No.1 society on the basis of documents of unimpeachable character, namely, the sanctioned plan, IOD, commencement and completion certificates. If at all the Petitioner is aggrieved by the grant of certificate in respect of the area admeasuring 823.80 sq.mtrs., the Petitioner can work out its remedies before the Civil Court. Hence, no interference is warranted with the impugned order in exercise of the supervisory jurisdiction, submitted Mr. Kanade.

12. In the case at hand, as noted above, Respondent No.2 – promoter and Respondent No.3 – owner of the lands on which the building of Respondent No.1 Society stands, did not contest the application for grant of certificate for unilateral deemed conveyance. Thus, the controversy between the Petitioner and Respondent No.1 Society essentially revolves around the question of the legality of the Corrigendum issued by the Competent Authority, thereby increasing the area of the land to be conveyed to the Respondent No.1 by including the area admeasuring 84.92 sq. mtrs., out of CTS No.972.

13. Evidently, the Promoter (R2) and the owner (R3) did not claim any property title over the land bearing Survey No.972. The claim of the Respondent No.1 Society rests on the sanctioned building plan and the lease deed dated 5th day of January, 1972 in respect of Survey Nos.185/A and 185/A2. The primary question which, thus, wrenches to the fore is whether

the Competent Authority was justified in exercising the power of review ? Whether the review in question was in the nature of a substantive review or exercise of inherent jurisdiction to correct the glaring procedural defect or jurisdictional infirmity ?

14. As a matter of first principle, the power to review the order already passed by the judicial tribunal or quasi-judicial authority is not an inherent power. Review is a creature of statute. Before the judicial or quasi-judicial authority proceeds to review its own order, it must have the mandate under the statute. In the absence thereof, it is legally impermissible for the judicial or quasi-judicial authority to review its own order.

15. In the off-quoted decision in the case of **Patel Narshi Thakershi and Ors. V/s. Shri Pradyumansinghji Arjunsinghji**², a three Judge Bench of the Supreme Court enunciated that it is well settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication.

16. Following the aforesaid pronouncement and the decision which take the same line, in the case of **Naresh Kumar and Ors. V/s. Govt. (NCT of Delhi)**³, the Supreme Court postulated that the jurisdiction of review can be derived only from the statute and, thus, any order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction.

² (1971) 3 SCC 844

³ (2019) 9 SCC 416

17. The aforesaid strict rule of no review sans statutory mandate admits of one exception, where the judicial or quasi-judicial authority committed a grave procedural irregularity which vitiates the order passed by such authority, then such authority would be justified in reviewing its own order in exercise of its inherent power, which partakes the character of procedural review. That brings to the fore the distinction between the substantive review and the procedural review.

18. In the case of **Grindlays Bank Ltd. V/s. Central Government Industrial Tribunal and Ors.**⁴, in the context of the contention that the order setting aside the ex-parte award, in fact, amounts to review, the Supreme Court clarified that the decision in **Patel Narshi Thakershi and Ors.(supra)**, is the authority for the proposition that the power of review is not an inherent power, it must be conferred either specifically or by necessary implication. The expression 'review' is used in two distinct senses, namely, (1) the procedural review which is either inherent or implied in a court or tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it, and (2) a review on merits when the error sought to be corrected is one of law and is apparent on the face of the record. It is in the latter sense that the Court in **Parel Narshi Thakershi (supra)**, held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a

4 1980 (Supp) SCC 420

procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito justitiae* to prevent the abuse of its process, and such power inheres in every court or tribunal.

19. Adverting to the aforesaid judgment in the case of **Grindlays Bank Ltd. (supra)**, and other judgments which take a similar view, in the case of **Kapra Mazdoor Ekta Union V/s. Management of Birla Cotton and Spinning Mills and Ors.**⁵, a three judge Bench of the Supreme Court illuminatingly postulated the distinction between the substantive review and the procedural review, in the following words :

“19. Applying these principles it is apparent that where a Court or quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the quasi judicial authority is vested with power of review by express provision or by necessary implication. The procedural review belongs to a different category. In such a review, the Court or quasi judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some

5 (2005) 13 SCC 777

illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. He has to establish that the procedure followed by the Court or the quasi judicial authority suffered from such illegality that it vitiated the proceeding and invalidated the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. In *Grindlays Bank Ltd. vs. Central Government Industrial Tribunal and others*(supra), it was held that once it is established that the respondents were prevented from appearing at the hearing due to sufficient cause, it followed that the matter must be re-heard and decided again.”

(emphasis supplied)

20. Indubitably, under the provisions of MOFA and the rules framed thereunder, the Competent Authority is not empowered to review its own order. This absence of the explicit power of review gives rise to the application for issue of Corrigendum to the order passed by the Competent

Authority under Section 11 of MOFA.

21. In the case of **Kashish Park Reality Pvt. Ltd. and Anr. (supra)**, on which a strong reliance was placed by Mr. Kamat, this Court after considering the precedents on the scope of review and the distinction between the substantive review and the procedural review, observed that, in the facts of the case, the question that arose for consideration was whether by the impugned Corrigendum, the Competent Authority has merely corrected a typographical error or whether it amounts to review of the earlier order and if so, whether such review is permissible ?

22. A learned Single Judge enunciated that with the disposal of the application under Section 11(3) of the MOFA, the Competent Authority had become functus officio and not being in seisin of the matter, had no jurisdiction to review the order, unless vested with powers of review under the law. In the facts of the said case, it was found that the Corrigendum was in the nature of a substantive review and not merely corrections of typographical or clerical errors. Indeed, the learned Single Judge also adverted to the fact that the order impugned in the said petition was not passed in adherence to the fundamental principles of natural justice and without providing an opportunity of hearing to the aggrieved person. However, the ratio of the judgment in the said case was not limited to the vitiation that crept in on account of non-observance of the fundamental principles of natural justice. The observations

in paragraph Nos.21 and 22 make this position abundantly clear :

“21. The applications fled by Respondent -Society in other Petitions proceed on the same basis with variation in the area covered by the building and the survey numbers of the land. By the impugned Corrigenda, the Competent Authority has rectified the certificates and granted deemed conveyance not only in respect of the buildings but also in respect of the subject land and had thereby materially and substantively varied the order dated 22/07/2020. By no stretch of imagination this substantive and material change can be considered as a rectification of a clerical or typographical error, which could be rectified by issuing a Corrigendum.

22. It is also pertinent to note that with disposal of the Applications under Sub section 3 of Section 11, Respondent No.2 – Competent Authority had become functus officio and not being in seisin of the matter, had no jurisdiction to review the orders, unless vested with powers of review under the law. Learned counsel for the parties do not dispute that the statute does not vest the Competent Authority with powers of review. In the absence of such statutory powers, Respondent No.2 – Authority had no jurisdiction to exercise the power of substantive review. Despite which Respondent No.2 – Competent Authority entertained and allowed the applications without notice to the Petitioners and without providing an opportunity of hearing, which is one of the fundamental principles of natural justice.”

(emphasis supplied)

23. The aforesaid position in law has been reiterated by this Court in the

cases of **Prem Villa CHL V/s. Uma Deep CHL**⁶ and **Surya Corporation and Ors. V/s. The Competent Authority and Ors.**⁷.

24. Mr. Kamat, learned Senior Advocate for the Petitioner, was justified in canvassing a submission that the Competent Authority has completely misconstrued the ratio of the judgment in the case of **Kashish Park Reality Pvt. Ltd. (supra)**. While dealing with the said issue, in paragraph No.9-f, the Competent Authority observed thus :

“9-f It is observed that in the judgment passed by the Hon'ble High Court in the matter of Kashish Park Reality Private Limited v/s. The State of Maharashtra and others, the Hon'ble High Court has distinguished between the power and authority of this Authority to review/rectify the order. In the said case the corrigendum was passed by the Hon'ble Authorities without giving an opportunity of being heard by the other parties in the matter. In the present case, the hearing notice is issued to all opponents and the parties are appearing before this Authority. Bare perusal of the judgment of the Hon'ble Bombay High Court observe that this Authority has absolute power to rectify the mistake apparent on the face of the records and such rectification shall under no circumstances can be called as review of the order”

25. The aforesaid observations of the Competent Authority leave no manner of doubt that the judgment in the case of **Kashish Park Reality Pvt. Ltd. (supra)**, was completely misread and the ratio wholly misconstrued. The

6 2024 SCC Online Bom 2987

7 2025(2) Bom CR 780

observations that the High Court has held that the Competent Authority has absolute power to rectify the mistake apparent on the face of the record and such rectification under no circumstances amounts to review of the order, is diametrically opposite to the ratio in the case of **Kashish Park Reality Pvt. Ltd. (supra)**. It seems that an incorrect impression gathered by the Competent Authority from the judgment in the case of **Kashish Park Reality Pvt. Ltd. (supra)** vitiated the further consideration by the Competent Authority.

26. The legal position which thus emerges is that, in the absence of statutory mandate, the Competent Authority is not empowered to embark upon the exercise which is in the nature of substantive review. The exercise of rectification of an earlier order passed by the Competent Authority can be justified as a procedural review, only in cases of clerical or arithmetical mistake or accidental slip or omission or patent and palpable errors. Grave procedural illegality which erodes the sanctity of the order, may, in a given case, justify the procedural review. A case of fraud, however, would be an exception to the aforesaid general rule. It is trite, if the order sought to be reviewed is obtained by fraud, then the restraint on review would not apply as the order which is obtained by fraud can be attacked in any proceeding, including a collateral proceeding as fraud vitiates all solemn acts. Thus, in the absence of an egregious fraud or grave procedural illegality resulting in

irretrievable prejudice to the party, like one that may occasion on account of passing an order without providing an effective opportunity of hearing to the aggrieved party, the Competent Authority is not competent to review its own order by invoking the principle of procedural review.

27. Applying the aforesaid principles to the facts of the case, it becomes explicitly clear that the Corrigendum in question has the trappings of a substantive review. The Competent Authority has proceeded to embark upon an inquiry as to the area which was allotted to the Petitioner under an Indenture dated 31 January 1963; the consequences that ensued the entry in the property card that the Petitioner Society had a right of access over the land admeasuring 114 sq. mtrs., out of Survey No.972 and the effect of the sanctioned building plan. These considerations, by no stretch of imagination, can be said to be in the nature of correction of any clerical or typographical error or a procedural irregularity.

28. The fact that the Competent Authority donned the role of an adjudicator becomes evident from the reasons which weighed with the Competent Authority in issuing the Corrigendum. The observations in paragraph No.9-g of the impugned order deserve to be extracted :

“9-g : It is observed from the building plan, the area on which the building of applicant society is standing is 823.72 sq mtrs. But the total area of CTS No. 974, 974/1 and 974/2 is admeasuring 738.80 sq mtrs. The area of CTS No. 972 is

admeasuring 1171.80 sq mtrs. But there is an entry in the property card bearing CTS No 972 that the area admeasuring 115/7/9 sq. var is for right of way for the members of the society. It is clear from this entry that the area admeasuring 115/7/9 sq var out of total area admeasuring 1171.80 sq mtrs does not belongs to the society but the society is having only right of way of this area. Further observed that Under Registered Indenture dated 31/01/1963 Jayendra Keshavlal Shah and Smt. Prankuverbai Keshavlal Shah being the Vendors with the confirmation of Shashikant Kuberbhai Patel (the Developer/Promoter) conveyed the land admeasuring 1337.79 sq mtrs bearing old Survey No. 185-A, Hissa No. 1(part) New Survey No. 185-A, Hissa No. 2A (part) now corresponding CTS No. 972 (part), 972/1, 972/2, of Village Vile Parle (H-Ward), Taluka Andheri, in favour of Shree Shivam CHSL. In the schedule of the property clearly mention of 1600.00 square yards (equivalent to 1337.79 sq mtrs) has been conveyed to Shri Shivam CHSL. The area of CTS No. 972/1 is 45.90 sq mtrs., the area CTS No. 972/1 is admeasuring 216.90 sq. mtrs and the area of 972 sq mtrs is 1171.80 sq mtrs. Total area of three CTS Nos. i.e., CTS No. 972, 972/1 and 972/2 is 1434.60 sq mtrs. but vide Indenture dated 31/01/1963 the land is conveyed to opp No. 03 is only 1337.79 sq mtrs. There is difference of 96.81 sq mtrs. between the total conveyed land and the total area of CTS Nos. 972, 972/1 and 972. The Applicant society is claiming the area as per approved building plan. Therefore the applicant society rightly claiming the are admeasuring 84.92 sq mtrs from CTS No 972."

29. The aforesaid observations would indicate that the Competent Authority proceeded to adjudicate the proprietary title of the predecessor in title of the Respondent No.1 and the Petitioner and its predecessor in title, weighed the relative merits of the claim over the land forming part of Survey No.972 and held that, in view of the entries in the PR Card recording the right of access, the claim of Respondent No.1 was sustainable. Keeping aside the question as to whether the Competent Authority is empowered to embark upon such an inquiry, the aforesaid consideration would indicate that the exercise was that of a substantive review and had no element of procedural review.

30. Mr. Kanade attempted to salvage the position by forcefully submitting that the area of 823.80 sq. mtrs., to which Respondent No.1 was entitled to, was evident from the documents which were annexed to the application No.60 of 2022 itself, especially the sanctioned building plan, IOD, the commencement and completion certificates. Therefore, according to Mr. Kanade, the Competent Authority can be said to have corrected an inadvertent error in mentioning the area of the land, in respect of which a certificate of Deemed Conveyance was granted.

31. The submission simply does not merit countenance. The fact cannot be lost sight of that, what the Competent Authority enforces is the statutory obligation of the promoter / owner to convey his right, title and interest in the land and building. The material on record, prima facie, indicates that the

buildings were constructed on the land bearing Survey Nos.974, 974/1 and 974/2 and the units therein were sold by executing the Agreements for Sale. There was no reference to the land bearing Survey No.972 in any of the underlying documents which were relied upon by the Respondent No.1 while seeking a certificate of Unilateral Deemed Conveyance.

32. At this juncture, a useful reference can be made to a recent pronouncement of the Supreme Court in the case of **Arunkumar H. Shah HUF V/s. Avon Arcade Premises Co-op. Hsg. Soc. Ltd. and Ors.**⁸ wherein it was enunciated that the Competent Authority while holding a summary inquiry under the provisions of the MOFA and the rules thereunder, is neither expected nor competent to determine the question of title and any party aggrieved by the decision of the Competent Authority is entitled to institute a suit before the Civil Court seeking declarations regarding title.

33. The broad submission that, whenever Competent Authority grants a certificate of Unilateral Deemed Conveyance, the challenge thereto must laid before the Civil Court, cannot be readily acceded to, in all situations. In a case of the present nature, where there was no privity between the Petitioner and Respondent No.1 and by way of Corrigendum, a portion of the land which forms part of CTS No.972, standing in the name of the Petitioner Society, was sought to be conveyed to the Respondent No.1, it cannot be urged that, even

⁸ Civil Appeal No.5377 of 2025 dt. 21 April 2025

though Corrigendum has been issued in excess of the jurisdiction vested in the Competent Authority, the challenge thereto must be mounted in a properly constituted civil Suit.

34. The matter can be looked at from a slightly different perspective. A person aggrieved by an order passed by the Competent Authority granting a certificate of Unilateral Deemed Conveyance need not necessarily be the promoter / owner or third party in all the cases. Even the Society which had sought the certificate of deemed conveyance may be aggrieved by the grant of a lesser area than it perceives it is entitled to. In that situation, the Society would also be bound by the dictum that a person aggrieved by the grant of certificate of deemed conveyance shall workout its remedies before the Civil Court if it involves a question of title. Resort to the proceeding which is essentially in the nature of review, disguised as a Corrigendum application, cannot be, thus, countenanced.

35. The conspectus of aforesaid consideration is that the Competent Authority clearly exceeded its jurisdictional limits in issuing a Corrigendum, which partakes the character of substantive review. Thus, the impugned order deserves to be quashed and set aside.

36. Hence, the following order :

ORDER

- (i) The Writ Petition stands allowed.

(ii) The impugned order dated 6 May 2025 issuing Corrigendum to the order dated 5 July 2022 in Application No.60 of 2022 stands quashed and set aside.

(iii) It is clarified that the Respondent No.1 Society shall be at liberty to institute a suit before the Civil Court to substantiate its claim over the area admeasuring 84.92 sq. mtrs. out of CTS No.972.

(iv) In the event such a suit is instituted, the Civil Court shall decide the same on its own merits and in accordance with law, without being influenced by any of the observations in this judgment.

(v) Rule made absolute to the aforesaid extent.

(vi) No costs.

(N.J.JAMADAR, J.)

37. At this stage, learned Counsel for the Petitioner informed the Court that pursuant to the impugned order, a Deed of Unilateral Deemed Conveyance in respect of an area admeasuring 823.72 sq. mtrs., has been executed and registered on 20 August 2025. A copy of Index-II is tendered for the perusal of the Court. Learned Counsel for the Respondent No.1 fairly submits that indeed the Deed of Unilateral Deemed Conveyance has been registered.

38. In view of the aforesaid order, the Deed of Conveyance executed and registered on 20 August 2025 is required to be corrected and rectified, to the extent of the area ordered to be conveyed under the Corrigendum, which is

set aside.

39. Respondent Nos.1 and 4 are, therefore, directed to execute a rectification deed to accordingly correct the area of the land, within a period of three months from today.

(N.J.JAMADAR, J.)