IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6618 OF 2026

Life Republic 7th Avenue Co-Op
Hsg. Society Throu. Vijay S Shejwal ... Petitioner

Versus

The State Of Maharashtra Throu. Its
Principal Sec. Co-Operation And Ors. ... Respondents

Mr. Sumit Kothari *for the Petitioner.*

Mr. Sukand Kulkarni *a/w Mr. Harsh Chokshi, Ms. Vishakha Dhaygude i/b Kango & Co. for Respondent No.4.*

Mr. P. V. Nelson-Rajan, *AGP for Respondent-State.*

CORAM : SANDEEP V. MARNE, J.

DATE : 16 OCTOBER 2026.

P.C. :

1) The Petitioner-Society has resistance in admitting flat purchasers of 'E' and 'G' Towers principally on account of the fact that it has filed a suit under provisions of Section 7 of the Maharashtra Ownership of Flat (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("**the MOFA Act**"), challenging the construction of the said two Towers. However, as of now the factual position is that on account of non grant of any injunction for construction of Towers 'E' and 'G', construction thereof is complete, the flats therein are sold and the Occupation Certificate is issued.

Petitioner carries an apprehension that if purchasers of flats in Towers 'E' and 'G' are granted membership, the same would frustrate its suit.

2) After having heard, the learned counsel appearing for parties, it is seen that the pendency of suit is the only reason why Petitioner-Society is refusing to admit flat purchasers of 'E' and 'G' wings/Towers as its members. If that is the case, it can be clarified that the mere admission of purchasers of flat in Towers 'E' and 'G' would not affect the suit filed by the Petitioner, the same would offer some solution to the conundrum at hand. If a separate society is directed to be formed by the residents of 'E' and 'G' Towers, the same would later give rise to difficulties for proportionate land sharing for conveyance purposes. It also appears that there are common amenities in respect of the all the Towers. It is therefore, appropriate that the society admits occupants of 'E' and 'G' Towers as its members, without prejudice to its pending suit. In the event, construction of Towers 'E' and 'G' is declared illegal by the Civil Court, the Petitioner-Society shall be at liberty to delete the names of residence thereof from its membership register.

3) Mr. Kothari has relied on the judgment of this Court in ***Sadguru Universal CHS Ltd., Through it's Authorized Representative Sanjay More Vs. State of Maharashtra, Through Government Pleader***[1] in support of his contention that it is permissible to register two societies even in respect of buildings having common amenities. The judgment is applicable in a reverse situation where registration of a new society was opposed by the existing society. In the present case, residence of Towers 'E' and 'G' do not desire to form a new society but are desirous of

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joining members of the Petitioner-Society. Therefore, the judgment in ***Sadguru Universal CHS Ltd.,*** (supra) would have no application to the unique facts of the present case. As observed above, the only reason why Petitioner-Society is opposing admission of residents of Towers 'E' and 'G' is on account of pendency of the suit. If the suit is dismissed, the position of formation of two societies would become irreversible. On the other hand, if the suit is allowed and Towers 'E' and 'G' are demolished, names of these members can always be deleted from society's membership.

4) Since purchasers of flats in Towers 'E' and 'G' are already occupying the flats, there needs to be some organization to look after those buildings. I am therefore not inclined to interfere in the impugned orders, in the unique facts of the present case.

5) It is clarified that once unit occupiers of Towers 'E' and 'G' are admitted as members of Petitioner-Society they shall be entitled to same treatment as the current members of the society.

6) With this clarification the Writ Petition is **disposed of.**

[SANDEEP V. MARNE, J.]

Signed by: Megha S. Parab
Designation: PA To Honourable Judge
Date: 19/10/2026 11:32:44