

Shabnoor

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

WRIT PETITION NO.490 OF 2025

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Jai Dhanashree Cooperative Housing
Society Ltd. Through Its
Chairman/ Secretary

... Petitioner

V/s.

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

... Respondents

Mr. Rajesh S. Datar a/w Ms. Dhruti R. Datar, for the
Petitioner.

Dr. Dhruti Kapadia, AGP, for the State – Respondent
No.1.

Mr. Amogh Singh i/b Mr. Chintan Shah, for Respondent
No.8.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 18, 2026

P.C.:

1. The present writ petition calls in question the legality and correctness of the order dated 11 October 2024 passed by the Competent Authority, whereby the application seeking unilateral deemed conveyance, submitted by the Petitioner–Society constituted under Section 10 of the Maharashtra Ownership Flats Act, 1963, came to be rejected. The grievance of the Petitioner is directed against the refusal to grant statutory conveyance under the scheme of MOFA.

2. The Competent Authority rejected the application essentially on two grounds. First, it was held that the sanctioned building plan placed on record was not legible and therefore could not be relied upon. Secondly, it was observed that the Developer could not convey a better title than what he himself possessed. The Authority further recorded that in the absence of consent from the land owner, the Developer had no authority to transfer the property in favour of the Society.

3. The learned Advocate appearing on behalf of the land owners opposed the petition. It was submitted that the Competent Authority had duly considered the objections raised by Respondent No. 6 before passing the impugned order. It was further contended that there was an admission to the extent that the Petitioner–Society would be entitled to an area admeasuring 490 square meters.

4. It was further urged on behalf of the owners that the Petitioner may be relegated to file a fresh application for deemed conveyance after producing a legible and readable copy of the sanctioned plan. According to the owners, the Developer had no right to convey land admeasuring 587.17 square meters as claimed by the Petitioner–Society.

5. Upon careful scrutiny of the impugned order and the reasons assigned therein, I find myself unable to sustain the view taken by the Competent Authority. The reasoning disclosed in the order does not accord with the settled principles governing the exercise of jurisdiction under the Maharashtra Ownership Flats Act, 1963.

The conclusions drawn are not supported by the material on record and disclose a manifest misdirection in law. The Act is a piece of beneficial legislation. It was enacted to remedy a recurring mischief. Flat purchasers, having parted with their savings, were often left without title to the land and building. The Statement of Objects and Reasons leaves no manner of doubt that the legislative intent was to secure timely conveyance and to protect purchasers from the inaction or default of promoters. The Competent Authority, while exercising statutory powers under such enactment, is expected to remain conscious of this object. Instead, the approach adopted in the present case reflects an unduly technical and restrictive reading of the statute. Such an approach defeats the very purpose for which the legislation was brought into force. An order so rendered cannot be said to be in conformity with law.

6. The first ground, namely that the sanctioned plan produced was not legible, could not have furnished a valid basis for outright rejection of the application. The jurisdiction exercised by the Competent Authority under Section 11 is facilitative in nature. It is intended to ensure that the statutory mandate of conveyance is carried into effect. If a document placed on record is unclear or deficient in form, the proper course would be to call upon the applicant to cure the defect. Procedural requirements are handmaids of justice. They are not to be elevated to a position where substantive rights are defeated. By rejecting the application on the ground of illegibility, without affording an opportunity to produce a clearer copy, the Authority has sacrificed substance at

the altar of form. Such rejection results in avoidable delay and compels the Society to incur further expenditure, which the statute precisely seeks to obviate.

7. The second ground proceeds on the premise that the Developer could not convey a better title than that possessed by him. This proposition, though unexceptionable in abstract, travels beyond the permissible limits of inquiry under Section 11. The Competent Authority exercises a summary jurisdiction. It is not constituted as a civil court for adjudication of intricate questions of title. Whether the promoter had marketable title, whether the land owner's consent was necessary, or whether the extent of the promoter's right was limited, are matters which may be canvassed in appropriate proceedings before a competent forum. The statutory mechanism of deemed conveyance is not intended to resolve complex inter se disputes between promoter and land owner. By embarking upon an examination of title in this summary proceeding and rejecting the application on that premise, the Authority has assumed a jurisdiction not vested in it.

8. A plain reading of Section 11 makes the position clear. The unilateral deemed conveyance operates to transfer to the Society such right, title and interest as the promoter possesses in the property. The statute does not contemplate a final adjudication of the quality or extent of that title in these proceedings. The conveyance takes effect subject to the rights, if any, of third parties. Those rights remain open to be adjudicated elsewhere. The function of the Competent Authority is confined to ensuring that the statutory obligation of conveyance is not frustrated. When

viewed in this light, the grounds relied upon in the impugned order cannot be sustained. They reflect an erroneous understanding of the scope of jurisdiction under the Act.

9. The record further discloses that the Architect's certificate placed on behalf of the Petitioner indicates a total built-up area of 1037.48 square meters as per the sanctioned plan. Significantly, the Petitioner has not claimed the entirety of the area. The claim for unilateral deemed conveyance has been consciously restricted to 587.17 square meters out of 926.50 square meters. This circumscribed claim demonstrates that the Society has proceeded with restraint and on the basis of available material. In these circumstances, rejection of the application in toto appears arbitrary. It is neither in consonance with the statutory scheme nor supported by cogent reasons. The Petitioner is entitled to conveyance of the area described in paragraph 11 of the application. The impugned order, therefore, cannot stand.

10. Rule is made absolute in terms of prayer clause (a).

11. The Competent Authority shall now issue the certificate contemplated under Section 11(5) in favour of the Petitioner in respect of the area specified in paragraph 11 of the application, in accordance with law. The exercise shall be completed within a period of four weeks from today.

12. The writ petition stands disposed of in the aforesaid terms. No order as to costs.

(AMIT BORKAR, J.)