

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.512 OF 2024

Nita Dilip Kshirsagar & Ors.

... Petitioners

V/s.

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

... Respondents

Mr. Pratik B. Rahade, for the Petitioners.

Mr. Sandip Babar, AGP, for the State – Respondent
No.1.

Mr. Rohan P. Surve i/b Yogesh Dandekar, for
Respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : APRIL 27, 2026

P.C.:

1. The challenge in this petition arises from the decision of the Competent Authority, passed at the instance of the owner, raising the issue regarding rejection of an earlier deemed conveyance proceeding.

2. The learned Advocate for the petitioners submits that no architect's certificate was produced on record so as to establish the entitlement of the respondent society.

3. It is further submitted that the fact of earlier rejection of proceedings under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management

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and Transfer) Act, 1963 (“MOFA”) was not brought to the notice of the Competent Authority.

4. On perusal of the earlier adjudication, it appears that the earlier application was rejected on technical grounds without going into the merits. The parameters governing such adjudication have been considered by this Court in *Magnum Uni ‘A’ CHS Limited and Ors. v. State of Maharashtra, through the Office of Sub-Registrar & Ors.*, reported in 2026 SCC OnLine Bom 1519.

5. Per contra, the learned Advocate for the respondents has placed reliance upon the judgment of the Supreme Court in *Arunkumar H. Shah HUF v. Avon Arcade Premises Co-operative Society Limited & Anr.*, (2025) 7 SCC 249.

6. In my opinion, in view of the consistent view taken by this Court and as now recognized by the Supreme Court in *Arunkumar H. Shah (supra)*, in cases involving disputes relating to quantum of area, the appropriate remedy available to the owner is to institute a civil suit for redressal of his grievances.

7. Hence, keeping all questions raised in the present petition open to be agitated in the civil suit, the present petition stands disposed of.

(AMIT BORKAR, J.)