

Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2327 OF 2025

Digitally
signed by
SHABNOOR
AYUB
PATHAN
Date:
2026.02.23
15:34:24
+0530

Ashapura Builders & Developers

Its Partner Girish M. Lulla

... Petitioner

V/s.

The District Deputy Registrar,

Cooperative Societies Thane & Ors.

... Respondents

Mr. Sumedh S. Modak, for the Petitioner.

Ms. M. S. Srivastava, AGP, for the State – Respondent
No.1.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 23, 2026

PC.:

- 1. Rule.** Rule made returnable forthwith.
- The present writ petition is filed at the instance of the petitioner–promoter, mainly on the ground that despite agreements as contemplated under Section 4 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (for short, “MOFA”) were duly executed in favour of the flat purchasers, he was not impleaded as a party in the proceedings initiated under Section 11 of MOFA for grant of deemed conveyance.
- The office remarks dated 5 May 2024 indicate that respondent No. 2 – society has been duly served. Despite service, none appears on behalf of respondent No. 2 – Society.

4. On perusal of the agreements executed under Section 4 of MOFA clearly shows that the petitioner–promoter had entered into the agreements with the flat purchasers, who have later on formed society. In the absence of the petitioner being impleaded as a party to the proceedings under Section 11 of MOFA, the impugned order passed by the Competent Authority cannot be sustained in law, as the same has been rendered in breach of principles of natural justice. The impugned order, therefore, deserves to be quashed and set aside.

5. Rule is made absolute in terms of prayer clauses (b) and (c).

6. It is made clear that respondent No. 2 – Society shall be at liberty to initiate fresh proceedings for deemed conveyance, after impleading the petitioner as a party respondent. If such proceedings are instituted, the Competent Authority shall decide the same afresh on their own merits and in accordance with law, without being influenced either by the impugned order or by the observations made in the present order.

7. The writ petition is accordingly disposed of in the above terms.

(AMIT BORKAR, J.)