MPBalekar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7485 OF 2024

Khan Safruddin M.H. Khan and Ors. … Petitioner
V/s.
Competent Officer and District Deputy Registrar and Anr. … Respondents

Mr. Deepak Kushwaha for the petitioners.

Mr. Y.D. Patil, AGP, for the State – Respondent No.1.

Ms. Vaishnavi G. i/by Aditya K. for respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : MARCH 24, 2026

P.C.:

1. The present writ petition arises from an order passed by the Competent Authority under Section 11 of the Maharashtra Ownership Flats Act. The developer and the owner have questioned that order.

2. Petitioners' main grievance is based on the earlier events relating to the society. It is pointed out that at one stage an interim order of liquidation was passed. That order was later confirmed. Ultimately, the society came to be deregistered. According to the petitioners, once the society was deregistered, it had no legal existence.

3. In the year 2021, some of the members of the society challenged the deregistration by filing an appeal under Section

152 of the Maharashtra Co-operative Societies Act. That appeal was allowed. Once the appellate authority set aside the deregistration, the earlier position of the society stood altered. After this, an application was filed under Section 11 of the MOFA Act for grant of unilateral deemed conveyance in favour of the society. The Competent Authority allowed that application. It is this order which is now under challenge.

4. The argument of the petitioners is that setting aside of deregistration does not mean full restoration of the society in the manner assumed by the respondents. According to them, once liquidation had already commenced and had been confirmed, the effect of allowing the appeal was only to remove deregistration. The liquidation proceedings, according to them, would still continue. From this, they submit that only the liquidator, or a person legally in charge under the liquidation process, could have taken steps on behalf of the society. They further contend that in the present case, no proper meetings of the society were held. No elections were conducted. There was no duly elected managing committee in place. Therefore, according to them, the application under Section 11 of the MOFA Act suffers from a serious defect. It is argued that such an application, filed without proper authority, could not have been entertained, much less allowed.

5. On careful consideration, this Court is unable to accept the above objections. When deregistration is set aside by a competent appellate authority, the legal position is that the society is brought back into existence. It cannot be treated as non-existent after that point. The society regains its status as a legal entity. At the same time, it is true that liquidation proceedings may still be relevant. In such a situation, the liquidator steps into the role which is otherwise performed by the managing committee. Under Sections 102 and 103 of the Maharashtra Co-operative Societies Act, the liquidator is entrusted with the control and management of the affairs of the society. His duty is not only to wind up. He is also required to protect the assets and interests of the society. He must take steps to recover dues and to ensure that the affairs are handled properly till a final decision is taken.

6. If, during this process, the liquidator forms an opinion that certain actions are necessary for protecting the rights of the society, he is not powerless. On the contrary, he is expected to act. One such important right is the right of the society to obtain conveyance of the property from the developer. If that right is not enforced, the members of the society would continue to suffer. Therefore, if an application under Section 11 of the MOFA Act is made during this period, it cannot be said that it is beyond the authority of the liquidator or the person managing the affairs. Such an action is directly connected with safeguarding the property rights of the society.

7. The next objection relates to the authority of the person who initiated the proceedings. This objection, in the opinion of this Court, does not carry weight. The question as to who should represent the society, whether meetings were properly held, or whether elections were conducted, are essentially internal matters of the society. These are issues between the members and the management. A third party like the developer cannot take advantage of such internal issues. The developer has a statutory obligation under Sections 10 and 11 of the MOFA Act to convey title to the society or the body of purchasers. This obligation is not dependent on the internal management structure of the society being perfect in all respects. If such objections are allowed, it would give an easy excuse to the developer to avoid or delay conveyance. That would defeat the very purpose of the statute. Therefore, once it is shown that the action is taken in the interest of the society, and for securing its lawful rights, the developer cannot question the authority of the person who has moved the application, merely on the ground that no elected committee was in place.

8. It is also necessary to see the limited scope of objections available to the developer in such proceedings. The developer may raise issues regarding the extent of property, the exact area to be conveyed, or similar factual aspects. These are matters which may require adjudication. However, the developer cannot dispute the basic entitlement of the society to seek conveyance particularly when agreements under 4 of MOFA Act are executed. If such a challenge is permitted, it would strike at the root of the MOFA Act. The object of the Act is to protect flat purchasers and to ensure that the title of the property is transferred to them through the society. The provision for unilateral deemed conveyance has been introduced precisely to overcome delays or refusals on the part of developers.

9. In the present case, once the order of deregistration was set aside, the society stood revived. The person managing its affairs was entitled to take necessary steps. Filing an application under Section 11 of the MOFA Act was one such step. The Competent Authority has rightly considered the matter and granted relief. No legal infirmity is shown in that decision.

10. For all these reasons, this Court finds no merit in the writ petition. The challenge raised by the developer and the owner cannot be accepted. The writ petition is accordingly dismissed.

(AMIT BORKAR, J.)