

Shabnoor

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

WRIT PETITION NO.9751 OF 2024

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New Jalpari CHS Ltd. ... Petitioner
V/s.
M/s. Sudama Estate Agency & Ors. ... Respondents

Mr. Sandeep Mishra i/b Vijay Tiwari, for the Petitioner.

Mr. S. L. Babar, AGP, for the State – Respondent No.7.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 18, 2026

P.C.:

1. The Petitioner – a society of flat purchasers formed under Section 10 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (“MOFA”) – has impugned the order passed by the Competent Authority under Section 11 of MOFA, whereby the application seeking unilateral deemed conveyance came to be rejected. The rejection is principally on the ground that the development undertaken by the Developer pertains to a larger parcel of land and that the Petitioner failed to produce a layout plan and Architect’s certificate to establish its proportionate entitlement in the larger property.

2. The learned Advocate for the Petitioner has invited attention to Clause (6) of the agreement for sale executed between the

purchasers and the Developer under Section 4 of MOFA. The said clause specifically records that the Developer intended to construct a building on land admeasuring 985.90 square meters out of Sector P-1, which forms part of the larger property of the total area of Sector P admeasuring 1971.79 square meters.

3. Moreover, the petitioner had also placed on record before the Competent Authority an Architect's certificate dated 13 October 2022, certifying that the area to be conveyed in favour of the Society is 985.90 square meters, which corresponds with the total built-up area of the Society as reflected in the agreement.

4. The Petitioner has filed an affidavit of service evidencing service of notice upon Respondent Nos. 1 and 6. Despite due service, the said respondents have failed to appear before this Court. Accordingly, the petition is taken up for final disposal in their absence.

5. Upon consideration of Clause (6) of the agreement executed under Section 4 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("MOFA") and the Architect's certificate dated 13 October 2022, it is evident that the land admeasuring 985.90 square meters. The said area is clearly ascertainable in terms of Clause (6) of the agreement executed under Section 4 of MOFA.

6. In the aforesaid circumstances, the Competent Authority was not justified in rejecting the application for grant of unilateral deemed conveyance. The petitioner is, therefore, entitled to conveyance of land admeasuring 985.90 square meters in

accordance with law.

7. The Competent Authority shall accordingly issue a certificate under Section 11(5) of MOFA in favour of the Petitioner-Society in respect of land admeasuring 985.90 square meters, within a period of four weeks from today.

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

(AMIT BORKAR, J.)