

Sayali

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

**SAYALI
DEEPAK
UPASANI**

WRIT PETITION NO. 16749 2024

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Chandrapushp CHS Ltd through Its
Chairman/Secretary ... Petitioner
V/s.
The State of Maharashtra and Others ... Respondents

Ms. Aishwarya Shinde and Mr. Aadesh Deshmukh, for
Petitioner.

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

CORAM : AMIT BORKAR, J.

DATED : JANUARY 19, 2026

P.C.:

1. The petitioner is a housing society. Its application for deemed conveyance under Section 11 of the MOFA Act was rejected by the Competent Authority. The Authority noted that the occupation certificate issued by the Gram Panchayat shows 12 flats in A wing and 12 flats in B wing. However, the occupation certificate produced by the promoter shows a difference of one hall. The Authority also noted that the proposed map filed by the society does not show the balance FSI. These facts have led to the present petition.

2. The dispute relates to land bearing Survey No. 17 Hissa No. 1A/1 measuring 1420 square metres at Mauje Birwadi, Taluka

Mahad, District Raigad. Respondent No. 2 purchased this land for development and got non-agricultural permission. Respondent No. 2 obtained approval from the Gram Panchayat and constructed two buildings. Each building has three floors and each floor has four flats. The project has 24 flats in total. On 1 April 2017, the Gram Panchayat issued an occupancy certificate. After this, Respondent No. 2 sold the flats to the members of the petitioner-society.

3. The petitioner-society was registered on 17 May 2021 under the Maharashtra Co-operative Societies Act, 1960. Under Rule 9 of the MOFA/MCS Rules, the promoter must convey the property within four months from the date of registration of the society. Respondent Nos. 1 and 2 did not convey the property. The petitioner therefore filed Application No. 1119 of 2023 on 11 January 2023 before the Competent Authority seeking deemed conveyance under Section 11(3) of the MOFA Act read with Rule 9 of the MOFA Rules, 1964. Respondent No. 2 opposed the application with various objections. The Competent Authority rejected the application. The petitioner has therefore filed this writ petition.

4. This Court issued notice to respondent No. 2 on 18 November 2024. The office remark dated 20 June 2025 records that the notice to respondent No. 2(i) and 2(ii) was served as per the bailiff report dated 1 February 2025. Despite service, respondent No. 2(i) and 2(ii) have chosen not to appear. There is

no material to show any valid reason for their absence. The Petition has therefore been taken up for final hearing and decided on merits.

5. The record shows that the petitioner-society filed a complete application as required under Section 11(3) of the MOFA Act. The application contains all the documents and certificates listed in Rule 9 of the MOFA Rules. The architect's certificate confirms that the construction is as per the sanctioned plan of the Gram Panchayat. The sanctioned construction is 903 square metres. The petitioner seeks deemed conveyance only for the constructed area supported by the architect's certificate. There is no contrary evidence on record to discredit this material.

6. The Competent Authority rejected the application only on the basis that the promoter allegedly constructed one extra hall. This reason is not legally sustainable. Even if the promoter constructed one hall without approval, it does not affect the purchasers' right to get conveyance of the sanctioned construction. The MOFA Act protects purchasers once the project is completed and possession is handed over. There is no evidence to show that the sanctioned construction differs from what is reflected in the architect's certificate. The right to deemed conveyance flows from the sanctioned plan and the completed construction, not from unauthorised additions by the promoter.

7. The Competent Authority adopted an incorrect approach while rejecting the application. The reasoning does not align with

the scheme of Section 11 of the MOFA Act. The Competent Authority ought to have granted the application once the sanctioned construction and ownership details were proved. For these reasons, the order rejecting the application cannot stand.

8. The following order is passed.

ORDER

- i) Rule is made absolute in terms of prayer clause A.
- ii) The Competent Authority shall issue the necessary certificate under the MOFA Act within four weeks from the date of pronouncement of this order.
- iii) The Petition stands disposed of.

(AMIT BORKAR, J.)