

Shabnoor

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

WRIT PETITION NO.17727 OF 2024

Shreenath Auto Works & Service Station ... Petitioner

V/s.

The State of Maharashtra & Ors. ... Respondents

Mr. Radhikesh V. Uttarwar a/w Pooja R. Thakkur,
Pradnya C. Solanki, for the Petitioner.

Ms. Snehal S. Jadhav, AGP, for the State – Respondent
No.1.

Mr. Abhay Dhodiwal a/w Mr. Rohit Jain and Rushabh
Bhandari i/b Jayakar and Partners, for Respondent
No.2.

CORAM : AMIT BORKAR, J.

DATED : MARCH 30, 2026

P.C.:

1. The present Petition takes exception to two orders passed by the Competent Authority, namely, the order dated 30 April 2013 issued in exercise of powers under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (MOFA), and the subsequent order dated 31 March 2025 whereby an application seeking issuance of a corrigendum to the earlier order came to be allowed for the purpose of including the name of the owner. By the order dated 30 April 2013, unilateral deemed conveyance was granted in respect of land admeasuring 3640 sq. mtrs. However, while granting such conveyance, the Competent Authority

expressly safeguarded and preserved the rights of the owner and the developer in respect of the balance Floor Space Index (FSI) and the requisite appurtenant area, thereby indicating that the grant of conveyance was not intended to extinguish or affect such subsisting rights.

2. It is the case of the respondent–Society that when it approached the Registering Authority for registration of the unilateral deemed conveyance pursuant to the order dated 30 April 2013, an objection was raised on the ground that the owner of the property had not been impleaded as a party in the proceedings under Section 11 of MOFA. On this premise, the Registering Authority declined to proceed with the registration of the conveyance. In view of such refusal, the respondent–Society was constrained to move an application before the Competent Authority seeking issuance of a corrigendum so as to implead the owner in the original proceedings. The said application, however, was opposed by the present petitioner, who questioned the very maintainability of such an application on the ground that the original proceedings had already attained finality and could not be reopened in the guise of a corrigendum.

3. Learned Advocate for the petitioner submitted that the application seeking issuance of a corrigendum was filed after an inordinate delay of eleven years from the date of the original order, and therefore, the same was liable to be rejected on the ground of delay and laches. It was further contended that a substantive defect, such as non-impleadment of a necessary party in the original proceedings, cannot be cured by way of a

corrigendum, as such a course would amount to altering the very foundation of the original order and would seriously prejudice the vested rights of the petitioner. On this basis, it was urged that the impugned order deserves to be quashed and set aside. It was also submitted that under the order dated 30 April 2013, the rights in respect of the balance FSI and the Transferable Development Rights (TDR) had crystallized and attained finality. Acting upon such crystallized rights, the petitioner, having derived title from the erstwhile developer, has already undertaken and completed construction of an additional second building. According to the petitioner, the impugned corrigendum order has the effect of unsettling these accrued rights and would adversely impact not only the petitioner but also third-party purchasers in the subsequently constructed building forming part of the same development.

4. A plain reading of Section 11(5) of the Maharashtra Ownership Flats Act, 1963 makes it clear that once a certificate issued by the Competent Authority under Section 11(3) is produced before the Registering Officer, a statutory duty is cast upon the Registering Officer to effect registration of the deemed conveyance. The scheme of the provision does not confer any adjudicatory power upon the Registering Officer to examine the legality, correctness, or propriety of the certificate so issued. The legislative intent is to ensure expeditious completion of conveyance in favour of the society upon certification by the Competent Authority. The only limited safeguard provided under Section 11(5) is the requirement of affording an opportunity of

hearing to the promoter, which indicates that the Registering Officer's role is procedural in nature.

5. Even if it is assumed that the owner was not impleaded as a party in the proceedings before the Competent Authority, such non-joinder would, at the highest, amount to an irregularity or illegality in the decision-making process of the Competent Authority. Such a defect may render the order vulnerable to challenge in appropriate substantive proceedings before a competent forum. However, the Registering Authority, being bound by the statutory mandate under Section 11(5), cannot refuse registration of the deemed conveyance on this ground alone. Permitting such refusal would amount to conferring upon the Registering Authority a power of review or appeal over the decision of the Competent Authority, which is clearly not contemplated under the statutory framework.

6. Insofar as the submission advanced on behalf of the petitioner is concerned, this Court finds substance in the contention that inclusion of the owner by way of a corrigendum goes beyond a mere clerical or typographical correction and, in effect, results in granting substantive relief. A corrigendum cannot be utilized as a device to alter the nature or scope of the original order or to cure foundational defects such as non-impleadment of a necessary party. Such an exercise would amount to re-opening and modifying the original proceedings, which is impermissible in law. This legal position stands settled by the judgment of this Court in *Kashish Park Reality Private Limited & Anr. vs. State of Maharashtra & Ors.*, reported in 2021 (3) Mh.L.J. 778, wherein it

has been held that a corrigendum cannot be used to effect substantive changes in an order that has already attained finality.

7. It is also a matter of record that the respondent–Society had previously sought issuance of a corrigendum for correction of the CTS number from CTS No. 268 to CTS No. 368, which was duly allowed by the Competent Authority and has attained finality. Accordingly, the Registering Authority is required to proceed on the basis that CTS No. 368 constitutes the subject property for the purpose of registration of the deemed conveyance.

8. In view of the aforesaid discussion, this Court is of the considered opinion that the appropriate course would be to direct the Registering Authority to register the unilateral deemed conveyance certificate dated 30 April 2013, as corrected to the extent of CTS No. 368. At the same time, the impugned order insofar as it holds that an application for issuance of a corrigendum to implead the owner is maintainable, cannot be sustained.

9. Accordingly, this Court holds that the application for issuance of a corrigendum, in the nature sought by the respondent–Society for impleadment of the owner, is not maintainable in law. The Registering Authority is directed to register the deemed conveyance certificate dated 30 April 2013, as corrected by substitution of CTS No. 368, within a period of four weeks from the date of production of this order, in order to give effect to the statutory mandate under Section 11(5) of MOFA.

10. It is clarified that the petitioner's rights as expressly preserved under the order dated 30 April 2013, the right of the developer and the owner to utilize the balance FSI and Transferable Development Rights (TDR), shall remain unaffected.

11. With the aforesaid observations and directions, the Writ Petition stands disposed of. There shall be no order as to costs.

(AMIT BORKAR, J.)