

Sayali

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

WRIT PETITION NO.18419 OF 2024

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M/s. Solanki Dham CHSL thr. Auth. Rep.

Dattaraj D. Parab

... Petitioner

V/s.

The State of Maharashtra and Others

... Respondents

Mr. A. R. Gole, for Petitioner.

Mr. Sagar A. Joshi, for Respondent no. 2.

Mr. mandar Limaye, with Vedant Bende for
Respondent nos. 3 and 4.

Mr. S. L. Babar, AGP for State-Respondent no. 1.

CORAM : AMIT BORKAR, J.

DATED : APRIL 20, 2026

P.C.:

1. The challenge in the present petition arises from the order dated 16 January 2024 passed by the competent authority while exercising powers under Section 11 of the Maharashtra Ownership Flats Act. By the said order, the application preferred by the petitioner seeking issuance of a corrigendum to the earlier deemed conveyance order came to be rejected.

2. The grievance of the petitioner is that the original order had recorded findings in favour of the petitioner, but the

operative portion did not reflect those findings. According to the petitioner, therefore, what was sought was only correction of the consequential part so that the direction may speak as per the reasons already recorded.

3. The contention of the petitioner raised before the competent authority for issuance of corrigendum was founded upon the adjudication already made in paragraph nos. 6 and 9 of the deemed conveyance order. From the material placed on record, it appears that while granting deemed conveyance, the competent authority had accepted the petitioner's case regarding entitlement to the Recreational Ground area. In paragraph no. 9 also, the authority had upheld the right of the petitioner society to an undivided share in the ground area. Thus on merits the issue was adjudicated. Once such adjudication had already taken place in the main proceedings, the authority could not ignore the consequence flowing from its own findings. If the reasoning portion adjudicates a right, but the operative remains incomplete, then the order needs correction by corrigendum.

4. It is necessary to note that the power to issue a corrigendum is not a power of rehearing. It cannot be used to reopen concluded findings, alter conclusions, or create rights which were never examined. However, it extends to correction of mistakes, omissions, accidental slips, and defects in expression where the adjudication is visible from the body of the order. If the competent authority has held that a society is entitled to

proportionate undivided rights in common area, but while drafting the operative portion such entitlement is not clearly carried forward, then issuance of corrigendum becomes proper. Such exercise does not amount to review.

5. In the present matter, the authority appears to have proceeded on the assumption that issuance of corrigendum would amount to granting fresh relief. If an adjudicatory authority records findings but refuses to translate them into directions, such a result defeats the purpose of proceedings under Section 11 of the MOFA Ac.

6. The apprehension expressed on behalf of the respondent that the petitioner is claiming exclusive ownership over the RG area or separate possession of common portions is without basis. The legal position under Section 11 proceedings is well settled that no society obtaining deemed conveyance can claim physical partition or exclusive right of common amenities. Common areas retain their character as common areas. Rights therein are undivided, proportionat.

7. The Recreational Ground area by sanctioned plan, forms part of common amenity space meant for collective use. When several societies or flat purchasers derive title through the same layout, entitlement in such area takes the form of undivided proportionate interest.

8. In these circumstances, the impugned order dated 16 January 2024 cannot be sustained. The competent authority

failed to appreciate the nature of the relief sought and the legal necessity of bringing the operative portion in conformity with the findings already rendered. The petitioner is therefore entitled to succeed.

ORDER

- I. The order dated 16 January 2024 is quashed and set aside.
- II. The competent authority shall, within a period of four weeks from the date of production of this order, issue the necessary corrigendum certificate.
- III. The said certificate shall specifically record that the petitioner, in addition to the exclusive area already granted under the original deemed conveyance order, is entitled to undivided rights in the Recreational Ground area to the extent of 477.65 sq. meters.
- IV. It is clarified that such entitlement is undivided and proportionate in nature, and shall not be construed as conferring exclusive possession or physical partition of the said common area.
- V. The petition stands disposed of in the above terms. No order as to costs.

(AMIT BORKAR, J.)