

Sayali

SAYALI
DEEPAK
UPASANI

Digitally signed
by SAYALI
DEEPAK
UPASANI
Date: 2026.03.16
15:02:04 +0530

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

WRIT PETITION NO. 6261 OF 2025

Lunkad Builders LLP

... Petitioner

V/s.

State of Maharashtra and Others

... Respondents

Ms. Manjiri Parasnis, for Petitioner.

Ms. S. S. Jadhav, AGP for State-Respondent nos. 1
and 2.

Mr. Prajakt M. Arjunwadkar with Jui Gharat, Mr. P. S.
Hande and Mr. Omkar Shinde, for Respondent no. 3.

CORAM : AMIT BORKAR, J.

DATED : MARCH 16, 2026

P.C.:

1. The present petition challenges an order passed by the Competent Authority under Section 11 of the Maharashtra Ownership Flats Act. By that order the Competent Authority has granted what is known as unilateral deemed conveyance in favour of Respondent No. 3. The order directs that the land admeasuring 5759.62 square metres together with the building constructed thereon having built up area of 9777.31 square metres be conveyed to the society. In simple terms the authority has stepped in and directed transfer of the property to the society

because the conveyance had not taken place in the ordinary course.

2. From the record placed before the Court one fact appears clear and undisputed. Agreements under Section 4 of the MOFA Act had been executed between the developer and the purchasers of the flats. This position has not been seriously disputed by either side. The learned Advocate appearing for the petitioner however raised two main submissions. According to her the developer was always ready and willing to execute the conveyance deed in favour of the society. She submitted that a draft conveyance had already been prepared by the developer. In that draft the developer had excluded an area which was described as green belt area. That green belt area was stated to have been planned and sanctioned through members of the authorities acting on behalf of the society. The submission therefore was that once the developer had shown readiness to execute the conveyance in this manner, the society ought to have proceeded to complete the registration of that conveyance. Instead of doing so the society approached the Competent Authority by filing an application under Section 11. According to the petitioner such an application itself was not maintainable when the developer was ready and willing to execute the conveyance deed.

3. The learned Advocate further invited my attention to the reply which had been filed before the Competent Authority. In

that reply an objection was specifically raised regarding the green belt area admeasuring 768.08 square metres. The contention in that reply was that such green belt area could not be conveyed without first carrying out proper division of the property card. It was suggested that unless the property card was divided and the property was measured in accordance with law, the exact boundaries could not be determined. According to the petitioner, without undertaking such measurement and division, the Competent Authority should not have directed deemed conveyance in favour of the society.

4. However, when the documents placed on record are carefully examined, a different picture emerges. It appears that the society had not accepted the conveyance which the developer had prepared. The society had expressed dissatisfaction with the manner in which the conveyance was proposed to be executed. The law under Section 11 of the MOFA Act provides a remedy in precisely such a situation. If the promoter fails to execute the conveyance within the statutory period, the society is entitled to approach the Competent Authority and seek conveyance through the statutory process. The mere fact that the developer claims readiness does not automatically take away that right if the parties are unable to reach a final and effective conveyance. Therefore once the society was not satisfied with the conveyance as proposed by the developer, it was within its right to invoke the provisions of Section 11.

5. It is also necessary to note the stand which the developer itself adopted before the Competent Authority. The developer did not merely state that it was ready to execute the conveyance. In the reply filed before the authority several objections were raised against the grant of deemed conveyance. One of those objections related to the exclusion of the green belt area. Apart from that the developer also raised disputes concerning other portions of the property. Objections were taken regarding the basement area. Objections were also raised regarding the showroom constructed on the ground floor of the building. When such multiple objections are raised, it indicates that there was no clear and unconditional readiness on the part of the developer to complete the conveyance. Instead it shows that several aspects of the property were in dispute between the developer and the society. In such circumstances the statutory authority was justified in examining the matter and deciding whether deemed conveyance should be granted.

6. The record therefore shows that there existed a genuine dispute between the developer and the society. Under the scheme of the MOFA Act the promoter is required to execute the conveyance within four months from the date on which the society is registered. If that statutory obligation is not fulfilled within the prescribed period, the society obtains a right to approach the Competent Authority. In the present case that stage had already arisen. Hence the society exercised the right given to it by the statute. So far as the specific objection regarding the

green belt area of 768.08 square metres is concerned, the reasoning recorded by the Competent Authority provides a clear answer. In paragraph 4 of the reasons and analysis the Competent Authority has expressly noted this objection. After considering the material placed before it, the authority excluded that area while granting deemed conveyance. Therefore the apprehension expressed by the petitioner that the green belt area was wrongly included does not survive.

7. In view of the above discussion the challenge raised by the petitioner cannot be accepted. The Competent Authority acted within the framework of Section 11 and considered the objections raised before it. The disputed green belt area was in fact excluded while passing the order. The remaining objections only demonstrate that the parties were not in agreement regarding the conveyance. That situation itself justified the exercise of statutory power by the Competent Authority. For these reasons I find no substance in the submissions advanced on behalf of the petitioner.

8. The petition is therefore dismissed.

(AMIT BORKAR, J.)