

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

WRIT PETITION NO. 16626 OF 2025

M/s. Sumit Properties and ors. ...Petitioners

Versus

State of Maharashtra and ors. ...Respondents

Mr. Mrunal Surana, (through VC), for the Petitioners.

Mr. A. C. Bhadang, AGP for the State.

CORAM: N. J. JAMADAR, J.

DATED: 12th JANUARY, 2026

Order:-

1. By this petition under Article 227 of the Constitution of India, the Petitioners calls in question the legality, propriety and correctness of an order dated 18th December, 2024 passed by the Competent Authority thereby granting a certificate of Unilateral Deemed Conveyance in favour of respondent No.4 – a Housing Society.

2. The petitioner claims to be the owner of the land admeasuring 1150 sq. mtrs. (the larger land). The petitioner developed a project in two wings, 'Wing-A' comprising 12 residential flats and 'Wing-B' comprising of 11 residential flat. Respondent No.4 – Society, formed by the flat purchasers in 'A-Wing', got itself registered as the Housing Co-operative Society,

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in the year 2023. Respondent No.4 – Society filed an application for grant of the certificate of Unilateral Deemed Conveyance under the provisions of Section 17 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963, (“MOFA, 1963”).

3. By the impugned order, the Competent Authority granted the certificate of Unilateral Deemed Conveyance observing, *inter alia*, that as per the sanctioned plan, respondent No.4 – Society was entitled to 616.60 sq. mtrs. land and 462.45 sq. mtrs. constructed area, the petitioner had committed breach in discharge of its obligation under Section 11 of MOFA, 1963, and, thus, respondent No.4 – Society was entitled to a Unilateral Deemed Conveyance.

4. Mr. Surana, the learned Counsel for the petitioner, submitted that, in fact, there were only nine flat purchasers in ‘A-Wing’ and, therefore, respondent No.4 – Society could not have been registered as a Housing Co-operative Society under the Maharashtra Co-operative Societies Act, 1960. Thus, the Competent Authority grossly erred in allowing the application for grant of certificate of Unilateral Deemed Conveyance.

5. The material on record indicates that, the petitioner-Promoter had executed the Agreements for Sale in favour of the

purchasers of 'A-Wing' during the period 2012 – 2015. The Promoter did not take steps to cause the Society of the flat purchasers registered, and execute a conveyance in favour of such Society of flat purchasers. The submission on behalf of the petitioner that, there were only nine members of A-Wing and, therefore, the Society could not have been registered, does not merit acceptance as the issue of legality of the registration of respondent No.4 – Society does not seem to have been agitated before the Authorities under the Maharashtra Co-operative Societies Act, 1960. The Competent Authority could not have inquired into the legality of registration of the Respondent No.4 society.

6. It appears that on the strength of the sanctioned plan the Architect had issued a certificate indicating the proportionate area to be transferred to the Society of the flat purchasers in A-Wing and B-Wing. Taking into account the said sanctioned plan and the Architect's certificate the Competent Authority has granted the certificate of Unilateral Deemed Conveyance. The approach of the Competent Authority appears justifiable. It is trite the Competent Authority is neither competent nor equipped to delve into the question of title. If any party is aggrieved by the decision of the Competent Authority, it is entitled to institute

a suit before the Civil Court questioning the entitlement of the Society premised on title.

7. A profitable reference, in this context, can be made to a judgment of the Supreme Court in the case of **Arunkumar H. Shah HUF Vs Avon Arcade Premises Co-op. Society Ltd¹**, wherein the Supreme Court expounded the nature and import of the proceeding before the Competent Authority, as under:

“37. Our conclusions on the interpretation of sub-sections (4) and (5) of Section 11 of the MOFA are as under:

.....

ii. The competent authority, while following the summary procedure, cannot conclusively and finally decide the question of title. Therefore, notwithstanding the order under sub-section (4) of Section 11, the aggrieved parties can always maintain a civil suit for establishing their rights;

iii. The provisions of Section 11 are for the benefit of the flat purchasers. In writ jurisdiction, the Court should not interfere with the order granting deemed conveyance unless the same is manifestly illegal. The writ court should generally be show in interfering with such orders. The reason is that, notwithstanding the order under Section 11(4), the remedy of aggrieved parties to file a civil suit remains open; and

8. In the case at hand, the Court does not find that there is a manifest illegality in the impugned order which would warrant interference in exercise of the writ jurisdiction.

9. The petition, thus, stands dismissed.

[N. J. JAMADAR, J.]