

Shabnoor

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

WRIT PETITION NO.17319 OF 2025

Ramanlal Nathmal Jain & Ors. ... Petitioners

V/s.

Lumbini Cooperative Housing Society
Through Its Chairman & Ors. ... Respondents

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Mr. Dadhiechi S. Mhaispurkar, for the Petitioners.

Mr. Ranvir Shekhawat i/b Raj Legal, for Respondent
No.1.

Ms. M. S. Shrivastava, AGP, for the State – Respondent
No.7 and 9.

CORAM : AMIT BORKAR, J.

DATED : APRIL 6, 2026

P.C.:

1. The present petition is arising from an order made by the Competent Authority, where by way of corrigendum, the area earlier mentioned has been changed. Earlier the area was stated as 566.94 sq. mtrs., but now by such corrigendum it is shown as 828.24 sq. mtrs. This change is not small or clerical in nature. It is changing the very extent of the property which is subject matter of the order. The petitioner is therefore saying that such change is not mere correction of typing mistake or calculation mistake, but it is altering the substance of the original decision. When authority passes an order, it is expected that all relevant material is considered at that time itself. If later on such major change is made, it creates doubt whether the authority is indirectly

reviewing its own order without following due process.

2. This Court has already considered similar issue in the case of *Kashish Park Reality Pvt. Ltd. v. State of Maharashtra (2021) 3 Mah LJ 778*. In that judgment it is clearly observed that once the Competent Authority exercises power under Section 11 of the Maharashtra Ownership Flats Act, it becomes functus officio to that extent. It cannot again reopen the matter and make substantial changes in the order. The law makes distinction between clerical correction and substantive review. Clerical correction is allowed to remove accidental errors. But where the change goes to root of the matter and affects rights of parties, it becomes review in substance. Such review power is not given under Section 11 of the Act. Therefore, the authority cannot do indirectly what it is not permitted to do directly. This legal position is already settled and binding.

3. In light of the above legal position, the impugned action of the Competent Authority cannot be accepted. The substitution of area from 566.94 sq. mtrs. to 828.24 sq. mtrs. is clearly not a minor correction. It changes the extent of land and therefore affects rights, obligations, and possibly entitlement of parties. Such exercise amounts to re-determination of the issue which was already decided. As held in the above judgment, such exercise is beyond jurisdiction of the Competent Authority. Hence, to that extent, the impugned order is required to be set aside. At the same time, it is necessary to clarify that this Court is not examining correctness of the original order dated 7 March 2022 on merits. Therefore, the respondent society is given liberty to challenge that

original order by adopting proper legal proceedings before appropriate forum.

4. As a consequence of setting aside the corrigendum and the modified part of the order, the certificate which has been issued under Section 11(5) of the Act on the basis of such modified area also cannot stand. The certificate is dependent upon the validity of the order. Once the foundation itself is removed, the superstructure cannot continue. Therefore, both the order of modification and the certificate issued pursuant to it are liable to be set aside.

5. It is made clear that all parties shall be free to take recourse to such remedies as are available to them in law. This includes challenge to the original order or any other appropriate proceedings as may be advised. This Court has only examined the limited issue of jurisdiction of the Competent Authority to issue such corrigendum. All other issues are kept open.

6. The petition is accordingly disposed of in above terms. There shall be no order as to costs.

(AMIT BORKAR, J.)