

Sayali

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

WRIT PETITION NO.3151 OF 2026

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Gera Developers Private Limited,
through it's authorized signatory
Gulzar Malhotra, having its registered
office at 200, Gera Plaza, Boat Club Road,
Pune 411 001

... Petitioner

Vs.

- 1. The State of Maharashtra,**
through it's Secretary, Department
of Cooperation, Mantralaya,
Mumbai
- 2. The Divisional Joint Registrar,**
having address at Cooperative
Societies, Sakhar Sankul,
Pune 411 005.
- 3. The District Deputy Registrar,**
having address at Coop. Societies,
Pune City, Pune, Sakhar Sankul, Pune
- 4. The Deputy Registrar, Cooperative**
Societies, Pune City (1), Pune (DR),
having address at 582 D,
Marketyard, Gultekdi, Pune
- 5. Gera's Isle Royale CHS Limited,**
Sr. No.24, Hissa NO.1 to 8,
Geras Isle Royle, Bavdhan Khurd,
Pune 411 021, through Chairman/
Chief Promoter
Goraksh Chandrakant Garad

...Respondent

Mr. Nikhil Sakhardande, Senior Advocate with Mr. Pralhad Paranjape, Mr. Manish Kelkar, Mr. Nitish Gaiokwad, and Mr. Saket Tare for the petitioner.

Mr. Y.D. Patil, AGP for respondent Nos.1 to 4-State.

Mr. Sandeep Phatak for respondent No.5.

CORAM : AMIT BORKAR, J.

RESERVED ON : MARCH 25, 2026.

PRONOUNCED ON : APRIL 1, 2026

JUDGMENT:

1. The petitioner, by the present petition, challenges the legality and correctness of the impugned judgment and order dated 17 February 2026 passed by respondent no. 1, namely the Minister of Co-operation, State of Maharashtra. By the said order, respondent no. 1 has allowed Revision Application Nos. 253 and 254 of 2025 preferred by respondent no. 5, thereby setting aside the judgment and order dated 26 March 2025 passed by respondent no. 2 and restoring the orders dated 03 October 2023 and 13 October 2023 passed by respondent no. 3.

2. The factual matrix giving rise to the present petition is as follows. The petitioner is a developer of repute and has undertaken development activities in the Bavdhan area of Pune. For such purpose, the petitioner acquired development rights in respect of a portion of land bearing Survey No. 24, Hissa No. 1-8, situated at Bavdhan Khurd, admeasuring 5 H 20 Ares, from Suyog Co-

operative Housing Society Ltd. under a duly registered Development Agreement. The said land was subsequently amalgamated and renumbered as Survey No. 24/1 and further subdivided into six sub-plots bearing Plot Nos. 'A', 'B', 'C', 'D', 'E' and 'F'. The development undertaken by the petitioner consists of a layout project comprising Tower-1 having 30 flats under MOFA, Tower-2 having 60 flats under RERA, Tower-3 having 30 flats under RERA, 35 bungalows or row houses under MOFA, and two proposed towers, namely Tower-4 and Tower-5 under RERA.

3. It is the case of the petitioner that, in accordance with the sanctioned plans, Tower-1 and the 35 bungalows or row houses were completed prior to the enactment of the Real Estate (Regulation and Development) Act, 2016 and are therefore governed by the provisions of MOFA and are not registered under RERA. Tower-2 and Tower-3 are duly registered under RERA bearing Registration No. P52100009870, whereas Towers 4 and 5 are also registered under RERA bearing Registration No. P52100011031. The development was conceived as a phase-wise project. The building plans and layout were initially sanctioned in the year 2011 and were subsequently approved in the year 2015 upon issuance of a Commencement Certificate. The petitioner has, in terms of the respective registered agreements, handed over possession of flats and bungalows to the purchasers upon execution of possession letters and consent letters in respect of Towers I, II and III.

4. It further appears that certain individuals claiming to be the heirs of the erstwhile land owners instituted Second Appeal No. 397 of 2011 before the Hon'ble High Court. By an interim order dated 05 August 2016, the Court directed that no new construction be commenced and no third-party rights be created. The said proceedings were subsequently settled amicably between the parties and the Second Appeal came to be disposed of by order dated 02 September 2024. According to the petitioner, the individual agreements and possession letters executed with the purchasers specifically provided that the petitioner would be entitled to form separate Co-operative Housing Societies for each building or project for the purposes of management, maintenance, and administration of common areas, and further to constitute an Apex Body or Federation of such societies as contemplated in the Eighth Schedule of the agreements.

5. The record indicates that on 24 January 2023, members of respondent no. 5 issued a notice to the petitioner proposing formation of a co-operative society. The petitioner, by its reply dated 07 February 2023, clarified the process of formation of separate societies for different phases of the project, namely Phase 1 comprising Gera's Isle Royal Villas, Phase 2 comprising Tower 1, Phase 3 comprising Towers 2 and 3, and Phase 4 comprising Towers 4 and 5, along with an Apex Body for all such societies. The petitioner also, by communication dated 10 February 2023, informed respondent no. 5 that it had no authority to independently initiate the process of formation of a society without

the petitioner's consent. In the meantime, on 08 February 2023, one Mr. Gorakh Chandrakant Garad, claiming to be the Chief Promoter of the proposed Gera's Isle Royale Co-operative Housing Society Ltd., filed an application before respondent no. 3 under Section 10(1) of the MOFA Act. The petitioner appeared in the said proceedings and filed its objections. However, respondent no. 3, after hearing the parties, allowed the said application.

6. Pursuant thereto, on 03 October 2023, respondent no. 3 granted registration to respondent no. 5 society. The petitioner, being aggrieved, preferred Appeal No. 108 of 2023 challenging the order dated 03 October 2023 and Appeal No. 13 of 2025 challenging the registration certificate dated 13 October 2023 before respondent no. 2, namely the Divisional Joint Registrar, Pune. In the meantime, by order dated 20 December 2024 passed in Special Civil Suit No. 69 of 2024, the Civil Court at Pune granted relief in favour of the petitioner by restraining respondent no. 5 from causing obstruction in the construction of Towers 4 and 5. Thereafter, respondent no. 2, by judgment and order dated 26 March 2025, allowed Appeal No. 108 of 2023, set aside the order dated 03 October 2023 and remanded the matter to respondent no. 3 for reconsideration. Consequentially, Appeal No. 13 of 2025 was also allowed and the registration certificate dated 13 October 2023 came to be cancelled. It is further the case of the petitioner that, despite having knowledge of the said order dated 26 March 2025, the said Mr. Gorakh Chandrakant Garad, acting as Chief Promoter of respondent no. 5, withdrew an amount of

approximately Rs. 56,00,000 from the society's bank account and transferred the same to his personal account.

7. In the aforesaid background, the petitioner, on 03 April 2025, made an application before respondent no. 4 seeking appointment of an Interim Liquidator under Sections 102 and 103 of the Maharashtra Co-operative Societies Act, 1960, with a view to prevent further financial irregularities and to safeguard and regulate the assets and liabilities of the society. Respondent no. 5 thereafter preferred Revision Application No. 253 of 2025 challenging the judgment dated 26 March 2025 passed in Appeal No. 108 of 2023 and Revision Application No. 254 of 2025 challenging the order passed in Appeal No. 13 of 2025. Upon service of notice, the petitioner appeared before respondent no. 1 and filed detailed replies opposing the revisions. The petitioner also submitted written arguments on 15 September 2025.

8. It is the grievance of the petitioner that respondent no. 1, while passing the impugned order dated 17 February 2026, failed to consider material facts on record, including the order passed by the Civil Court, Pune in Special Civil Suit No. 1231 of 2025, whereby an injunction had been granted in favour of the society and the petitioner had been directed to continue maintenance of common amenities and facilities in the project till further orders. Notwithstanding the same, respondent no. 1 proceeded to allow the revision applications and restore the orders passed by respondent no. 3. According to the petitioner, the impugned order suffers from patent illegality, is contrary to the factual position and

settled legal principles, and is therefore liable to be set aside.

9. Mr. Nikhil Sakhardande, learned Senior Advocate appearing on behalf of the petitioner, submitted that the impugned order suffers from non-consideration of material facts. He contended that the development in question comprises multiple components governed by distinct statutory regimes. According to him, the layout consists of Tower-1 having 30 flats governed by the Maharashtra Ownership Flats Act, 1963, 35 bungalows or row houses also governed by the said enactment, Tower-2 having 60 flats registered under the Real Estate (Regulation and Development) Act, 2016, Tower-3 having 30 flats registered under RERA bearing Registration No. P52100009870, and two proposed towers, namely Tower-4 and Tower-5, which are likewise registered under RERA. He submitted that the impugned order fails to appreciate this statutory distinction.

10. Learned Senior Advocate further submitted that though Section 10 of the Maharashtra Ownership Flats Act casts an obligation upon the promoter to take steps for formation of a co-operative society, the impugned order passed by respondent no. 1 is erroneous in law as it does not consider that Towers II and III are governed by the provisions of the Real Estate (Regulation and Development) Act, 2016. He submitted that Rule 9 of the applicable Rules mandates formation of a separate society for each project and, in terms of Section 2(zn) of the Act, each tower constitutes a distinct project. He further submitted that Section 17 of the Act obligates the promoter to convey title in respect of each

such project independently. On this basis, it was urged that separate societies are required to be formed for each building or phase within the layout, having regard to the differing statutory regimes and nature of development.

11. It was further contended that the impugned order proceeds on an erroneous premise of obtaining 51 percent consent by treating all unit holders across different towers and bungalows as a single unit. According to the learned Senior Advocate, such an approach is contrary to the scheme of the Real Estate (Regulation and Development) Act, 2016. He further submitted that the petitioner has consistently expressed readiness and willingness to form separate co-operative housing societies for each building or phase and thereafter constitute an Apex Body or Federation in terms of the Eighth Schedule of the agreements and the governing law. Reference was made to an email dated 24 July 2021 in support of such willingness. However, according to him, due to the conduct of the Chief Promoter and lack of cooperation from certain unit purchasers, the petitioner was unable to secure the requisite consent for formation of separate societies.

12. Learned Senior Advocate further submitted that respondent no. 1 has failed to consider that the petitioner had, by its communication dated 07 February 2023, informed the unit holders regarding the process of forming separate societies phase-wise along with an Apex Body for all such societies. He emphasized that this communication preceded the filing of the application by respondent no. 5 before respondent no. 3. It was therefore

contended that respondent no. 5 had no authority in law to unilaterally initiate the process of formation of a society without the consent of the petitioner.

13. It was further submitted that the interpretation placed by this Court on Rule 9 of the relevant Rules contemplates that in the case of a layout development, the promoter is entitled to form separate co-operative societies for each individual building and thereafter constitute a federation of such societies. The petitioner, according to the learned Senior Advocate, remains ready and willing to incorporate separate societies for all completed phases and to initiate such process within a period of one week, if so directed. Section 61 of the Real Estate (Regulation and Development) Act, 2016 provides for penalty in cases of contravention of provisions of the Act other than those specifically covered under Sections 3 and 4. The provision stipulates that where a promoter contravenes any such provisions, or the rules or regulations made thereunder, the promoter shall be liable to a penalty which may extend up to five percent of the estimated cost of the real estate project as determined by the Authority. On these submissions, it was prayed that the impugned judgment and order dated 17 February 2026 passed by respondent no. 1 be quashed and set aside and the revision applications preferred by respondent no. 5 be dismissed.

14. Per contra, Mr. Sandeep Pathak, learned Advocate appearing on behalf of respondent no. 5, submitted that the petitioner-developer lacks locus standi to challenge the formation and

registration of the society, once such formation is carried out in accordance with the provisions of the Maharashtra Co-operative Societies Act, 1960 read with the Maharashtra Ownership Flats Act, 1963 and the Rules framed thereunder. He submitted that in the present case, upon the tenth purchaser acquiring a flat or unit under a registered agreement dated 14 August 2014, a statutory obligation arose upon the petitioner-developer to take necessary steps for formation and registration of the society within a period of four months, that is, on or before 14 December 2014, in terms of Section 8 of the MCS Act read with Section 10 of MOFA and Rule 8 of the MOFA Rules. Learned Advocate further submitted that under Sections 10 and 11 of MOFA read with Sections 8, 9 and 10 of the MCS Act, the flat and row-house purchasers acquire a statutory right to have a co-operative housing society formed and to obtain conveyance of the land and building in favour of such society within the prescribed time. He submitted that such right is not dependent upon the unilateral discretion or preference of the promoter. In the present case, as the petitioner-developer failed to initiate steps for formation of the society within the stipulated period, 109 out of 155 unit holders, constituting more than 51 percent of the total, passed a resolution dated 07 January 2023 resolving to form a single co-operative housing society in respect of Plot A. He submitted that all requisite documents and statutory forms were duly executed and submitted before the competent authority along with Application No. 23 of 2023 under the relevant provisions of the MCS Act read with Section 10 of MOFA,

which application came to be allowed on 03 October 2023.

15. It was further submitted that the statutory framework under MOFA and the MCS Act permits either formation of a single society for the entire layout or multiple societies for different buildings or phases, and that the decision in that regard rests with the majority of the purchasers. According to him, once an overwhelming majority has elected to form a single co-operative housing society, and the competent Registrar has recorded satisfaction under Sections 8, 9 and 10 of the MCS Act, such a decision cannot be defeated merely on the basis of the promoter's preference for a different structure. He further submitted that the provisions of the Real Estate (Regulation and Development) Act, 2016 primarily regulate registration of projects and obligations of the promoter towards allottees, and do not prohibit formation of a single society for a composite development comprising multiple buildings. In the present case, the project has been conceived and marketed as a unified development under the name "Gera's Isle Royale" with common amenities and infrastructure including a common entrance, club house, swimming pool, gymnasium, garden, children's play area, squash court, tennis court and basketball court, thereby justifying formation of a single society.

16. Learned Advocate further submitted that even assuming that Towers 2 and 3 are registered under the Real Estate (Regulation and Development) Act, 2016, the land and common amenities continue to be situated on the same Plot A, and the purchasers across the bungalows and towers have consciously opted for

formation of a single society. He submitted that the Minister has rightly appreciated this composite factual and legal position in upholding formation of a single co-operative housing society for the entire layout. It was further submitted that, at the time of filing Application No. 23 of 2023, the project comprised 155 existing units, namely 120 flats and 35 row houses, in respect of which Occupation Certificates had already been obtained, and 109 unit holders had supported the proposal, thereby satisfying the requirement of majority consent under Section 10 of MOFA and applicable administrative circulars. He submitted that members pertaining to proposed Towers 4 and 5, which were yet to be constructed or handed over, could not be taken into account for the purpose of determining consent, and therefore the contention of the petitioner seeking to include such prospective units to dilute the majority was rightly rejected.

17. He further submitted that during the pendency of proceedings, six row-house owners, in collusion with the petitioner, executed a Deed of Declaration under the provisions of the Maharashtra Apartment Ownership Act on 06 July 2024, despite the fact that 21 out of 35 row-house owners had already participated in the process of formation of the society and the society had been duly registered on 13 October 2023. According to him, once a valid co-operative housing society has been constituted and registered on the basis of majority consent, any subsequent attempt by a minority of unit holders to create a separate legal structure cannot be permitted to defeat the rights of

the existing society or to fragment ownership and management to the detriment of the majority. He therefore submitted that the petition deserves to be dismissed.

18. He further submitted that under Rule 9 of the applicable Rules framed under the Real Estate (Regulation and Development) Act, 2016, the promoter is required to submit an application to the Registrar for registration of a co-operative housing society or other legal entity within a period of three months from the date on which 51 percent of the total number of allottees in a building or wing have booked their apartments. Upon expiry of the said period, the right to initiate formation of such legal entity accrues in favour of the allottees themselves, thereby entitling them to take independent steps for registration of the society.

19. He further submitted that mere issuance of an email by the petitioner or the act of placing documents before purchasers for obtaining their signatures cannot be construed as compliance with the statutory obligation to initiate formation of a legal entity. According to him, such acts are only preparatory in nature and do not amount to taking effective steps within the meaning of the governing provisions. He submitted that once the statutory period of three months has elapsed, the right of the promoter to exclusively undertake the process of formation of the legal entity does not survive, and the same stands vested in the allottees. In such circumstances, the petitioner cannot seek to rely upon such incomplete or passive steps to contend that its right to form the society continued to subsist.

REASONS AND ANALYSIS:

20. For the purpose of deciding the issue involved in the present petition, it becomes necessary to advert to the relevant statutory provisions governing formation of legal entity and obligations of the promoter. Accordingly, Section 2(zj), Section 2(zn) and 61 of the RERA Act, Rule 9 of the Rules framed under the Real Estate (Regulation and Development) Act, 2016, and Section 10 of the Maharashtra Ownership Flats Act, 1963 are required to be set out.

“2(zj) “project” means the real estate project as defined in clause (zn);

2(zn) “real estate project” means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartments, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

61 of RERA Act: Penalty for contravention of other provisions of this Act.

If any promoter contravenes any other provisions of this Act, other than that provided under section 3 or section 4, or the rules or regulations made thereunder, he shall be liable to a penalty which may extend up to five per cent. of the estimated cost of the real estate project as determined by the Authority.

Rule 9. Formation of legal entity and transfer of title. -

(1) Promoter to enable formation of Legal Entity like Cooperative Society, Company, Association, Federation etc. under clause (e) of sub-section (4) of section 11 of the Act.-

(i) Where a Co-operative Housing Society or a Company or any other legal entity of allottees is to be constituted for a single building not being part of a Layout; or in case of layout of more than one building or a wing of one building in the layout, the Promoter shall submit the application in that behalf to the Registrar for registration of the Co-operative Housing Society under the Maharashtra Co-operative Societies Act, 1960 or a Company or any other legal entity, within three months from the date on which fifty one per cent. of the total number of allottees in such a building or a wing, have booked their apartment.

(ii) Where a Promoter is required to form an Apex Body either as a federation of separate and independent Co-operative Housing Societies or Companies or any other Legal Entities or as a Holding Company of separate and independent Co-operative Housing Societies or companies or any other Legal Entities, then the Promoter shall submit an application to the Registrar for registration of the co-operative society or the company to form and register an Apex Body in form of Federation or Holding entity consisting of all such entities in the Layout formed as per clause (i) of sub-rule (1) of rule 9 (1)(i) herein above. Such application shall be made within a period of three months from the date of the receipt of the occupancy certificate of the last of the building which was to be constructed in the Layout.

(iii) If the promoter fails to form the legal entity such as Cooperative Society or Company or Association or Federation, as the case may be, the Authority shall by an

order direct the Promoter to apply for formation of such legal entity or may authorize the allottees to apply for formation of such legal entity.

Section 10. Promoter to take steps for formation of co-operative society or company. -

(1) As soon as a minimum number of persons required to form a Co-operative society or a company have taken flats, the promoter shall within the prescribed period submit an application to the Registrar for registration of the organisation of persons who take the flats as a co-operative society or, as the case may be, as a company; and the promoter shall join, in respect of the flats which have not been taken, in such application for membership of a co-operative society or as the case may be, of a company. Nothing in this section shall affect the right of the promoter to dispose of the remaining flats in accordance with the provisions of this Act. [Provided that, if the promoter fail within the prescribed period to submit an application to the Registrar for registration of society in the manner provided in the Maharashtra Co-operative Societies Act, 1960, the Competent Authority may, upon receiving an application from the persons who have taken flats from the said promoter, direct the District Deputy Registrar, Deputy Registrar or, as the case may be, Assistant Registrar concerned, to register the society: Provided further that, no such direction to register any society under the preceding proviso shall be given to the District Deputy Registrar, Deputy Registrar or, as the case may be, Assistant Registrar, by the Competent Authority without first verifying authenticity of the applicants request and giving the concerned promoter a reasonable opportunity of being heard.

(2) If any property consisting of building or buildings is constructed or to be constructed [and the promoter submits such property to the provisions of the Maharashtra Apartment Ownership Act, 1970, by executing and registering a Declaration as provided by that Act] then the promoter shall inform the Registrar as defined in the Maharashtra Co-operative Societies Act, 1960, accordingly; and in such cases, it shall not be lawful to form any co-operative society or company.”

21. Section 2(zj) of the Act defines the expression “project” to mean a real estate project as defined under Section 2(zn) of the said Act. Section 2(zn) further defines “real estate project” to mean the development of a building or a building consisting of apartments, or the conversion of an existing building or any part thereof into apartments, or the development of land into plots or apartments for the purpose of sale, whether in whole or in part. The definition is of wide amplitude and expressly includes common areas, development works, improvements, structures, as well as all easements, rights and appurtenances attached thereto.

22. Section 61 of the Act provides for consequences of contravention of provisions of the Act other than those specified under Sections 3 and 4. It stipulates that where a promoter violates any such provision or the rules or regulations framed thereunder, the promoter shall be liable to a penalty which may extend up to five percent of the estimated cost of the real estate project as determined by the Authority.

23. Rule 9 of the applicable Rules under Act provides for formation of a legal entity and transfer of title. Sub-rule (1)(i) mandates that where a co-operative housing society, company or any other legal entity of allottees is to be constituted, whether for a single building or for a building or wing forming part of a larger layout, the promoter is required to submit an application to the Registrar for registration of such entity within a period of three months from the date on which 51 percent of the total number of allottees in such building or wing have booked their apartments. Sub-rule (1)(ii) further provides that in cases where an Apex Body is to be constituted in respect of a layout comprising multiple buildings or wings, the promoter is required to submit an application for registration of such Apex Body within a period of three months from the date of receipt of the Occupation Certificate of the last building in the layout. Sub-rule (1)(iii) stipulates that in the event of failure on the part of the promoter to form such legal entity within the prescribed time, the Authority may either direct the promoter to initiate such formation or authorise the allottees to undertake the same.

24. Section 10 of the Maharashtra Ownership Flats Act, 1963 casts a statutory obligation upon the promoter to take steps for formation of a co-operative society or company as soon as the minimum number of persons required to constitute such entity have taken flats. The provision mandates that the promoter shall, within the prescribed period, submit an application to the Registrar for registration of such organisation of flat purchasers. The proviso

contemplates that in the event of failure on the part of the promoter to submit such application within the prescribed period, the Competent Authority may, upon an application made by the flat purchasers, direct the concerned Registrar to register the society after verifying the authenticity of the request and upon granting an opportunity of hearing to the promoter. Sub-section (2) clarifies that where the promoter submits the property to the provisions of the Maharashtra Apartment Ownership Act, 1970 by executing and registering a declaration, the formation of a co-operative society or company would not be permissible.

25. The dispute arises out of a development project where the layout contains different buildings and units and those parts are not all governed by the same statutory position. The petitioner argues that because some parts of the project are under MOFA and some are under RERA, a single society for all of them was not proper. The petitioner also argues that it had already expressed willingness to form separate societies phase wise, and that respondent no. 5 could not have bypassed the promoter and directly moved for formation of one society. On the other hand, respondent no. 5 argues that the petitioner did not take effective steps within time, that the purchasers had the right to act, and that a clear majority of the relevant unit holders chose to form one society for the completed part of the project. After going through the material placed before me, I am of the view that the challenge raised by the petitioner cannot be accepted.

26. The first aspect which needs to be understood is the statutory duty cast upon the promoter. The scheme of Rule 9 of the Rules and Section 10 of the Act does not leave any discretion with the developer to act as per its convenience. The language of these provisions shows that once a sufficient number of flat purchasers come into the project, a legal obligation arises. The promoter is required to take steps within the time prescribed by law for formation of the legal entity, such as a co-operative society or any other recognised body. The purchasers, after investing their money and taking possession, are entitled to have a proper organisation which can manage common areas, handle maintenance, and represent their collective interest. Without such a body, the purchasers remain dependent.

27. In this background, the contention of the petitioner that it had sent emails or had kept documents ready for signatures cannot be accepted. Such acts may show some intention but they do not satisfy the requirement of law. The rule 9 speaks of steps to be taken within three months. There is a difference between preparing papers and actually initiating the legal process before the competent authority. If such incomplete acts are treated as compliance, then the purpose of fixing a time limit would fail. The promoter could then indefinitely delay the process by saying that it was ready and willing without ever completing the task. The law expects the promoter to move the process of registration in an effective manner. Therefore it must be held that mere readiness does not keep the promoter's right alive.

28. The petitioner has argued that every tower must be treated as a separate project, and therefore a separate society is required for each such tower. According to the petitioner, since each tower consists of apartments which are independently developed and sold, each tower answers the definition of a separate project. On that basis, it is contended that Rule 9 makes it mandatory to form a separate society for each such project.

29. At first glance, this argument appears logical because the definition of “real estate project” is wide and includes development of a building consisting of apartments for the purpose of sale. A single tower can indeed fall within that definition. However, the difficulty arises when this definition is applied in isolation without considering the full scheme of the law and the factual situation of the development. The definition itself is not as narrow as the petitioner suggests. It not only refers to a building, but also includes common areas, development works, improvements, and all rights and appurtenances connected with it. This indicates that the concept of a project is not always confined to a single structure. It can also extend to a larger development where different parts are connected by common facilities and common planning.

30. Rule 9 also cannot be read in a mechanical manner. The Rule speaks of formation of a legal entity for a building or a wing, but it also recognises situations where there is a layout consisting of more than one building. In such cases, the Rule itself contemplates formation of an Apex Body or federation of societies. This shows

that the law is conscious of complex developments where more than one building forms part of a larger scheme. Therefore, it cannot be said that the Rule mandates in all circumstances that each tower must necessarily have a completely separate society, without regard to the overall nature of the project.

31. In the present case, the material on record shows that the development was planned as a composite layout. The towers and bungalows are situated on the same plot, and they share common infrastructure and amenities. The purchasers were part of one larger residential scheme. In such a situation, to treat each tower as entirely independent for all purposes, including formation of society, would ignore the unity of the project. At the same time, it is also true that the law does recognise that in certain cases separate societies may be formed for separate buildings or phases. But that depends upon the facts and the manner in which the project is implemented. It is not an absolute rule flowing automatically from the definition of “project”. Therefore, while it may be correct to say that each tower can be viewed as a project for certain purposes under the Act, it does not necessarily follow that a separate co-operative society must be formed for each tower in every case. The formation of society has to be decided by considering the overall development, the existence of common facilities, the intention reflected in the agreements, and the conduct of the parties, along with the statutory scheme. The petitioner’s argument would lead to fragmentation even in cases where the project is clearly integrated.

32. Coming to the next submission, the petitioner has repeatedly stated that it was always willing to form separate societies for different phases of the project. On a plain reading, this submission may appear reasonable. The record shows that the purchasers themselves had already begun taking steps for formation of a society. At the same time, the petitioner, in its own communications, had accepted that the project was to be developed in phases and that separate societies and an Apex Body could be formed. This shows that the petitioner had full knowledge of the process of registration which it now seeks to rely upon.

33. Despite such knowledge, the petitioner did not bring the process to its logical conclusion within the time required by law. There is no material to show that the petitioner actually initiated the statutory process in the prescribed manner by filing proposal for registration. Once the promoter, who is primarily responsible, fails to act within time, the law does not compel the purchasers to indefinitely depend upon the promoter. The statutory scheme itself provides that in such a situation, the right to move forward passes to the purchasers. They are then entitled to take steps for formation of the legal entity. This shift of right is provided to protect the purchasers from delay on the part of the promoter. Therefore, the argument of the petitioner that it was willing to act cannot override the fact that it did not act in the manner and within the time required by law. The purchasers, having waited and having found no effective action from the promoter, were

justified in proceeding on their own. Once that stage was reached, the petitioner cannot turn back and say that its earlier intention should be treated as sufficient compliance.

34. The next important aspect relates to consent of the purchasers. In the present matter, respondent no. 5 has placed material to show that 109 out of 155 existing unit holders supported the proposal for formation of one co-operative housing society. Out of 35 bungalow owners, 21 have supported the proposal. This clearly crosses the threshold of 51 percent. It is a clear indication that more than half of the existing occupants were in favour of one society. Therefore, the majority of 109 out of 155, including 21 bungalow owners, has to be treated as valid and sufficient for the purpose of forming the society.

35. When a project is developed in such a manner that it provides common facilities to all residents, it indicates that the project is not divided. A common entrance, a shared club house, swimming pool, gymnasium, garden and other such amenities are meant for daily use by all occupants. People living in different towers or units use the same access, the same facilities, and depend upon the same maintenance arrangements. Because of this, their living conditions become connected with each other. In such circumstances, formation of one common society may, in present case, will be more effective. It avoids duplication of management. It allows better coordination in maintaining common areas. It reduces confusion about responsibility. It also ensures that all persons who are using shared amenities contribute and

participate through a single body. Therefore, the idea of one society in a composite project cannot be said to be contrary to law in the present case.

36. In view of the foregoing discussion and reasons recorded hereinabove, the following order is passed:

- (i) The Writ Petition stands dismissed;
- (ii) The impugned judgment and order dated 17 February 2026 passed by respondent no. 1 in Revision Application Nos. 253 and 254 of 2025 is upheld;
- (iii) Rule is discharged;
- (iv) In the facts and circumstances of the case, there shall be no order as to costs;
- (v) Pending applications, if any, do not survive and stand disposed of accordingly.

(AMIT BORKAR, J.)