

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4026 OF 2026

Maki Homi Chibber nee Maki Modi,
Adult, Indian Inhabitant, aged 58 years,
residing at 25, Shahid Bhagat Singh Road,
Mumbai – 400 039

... **Petitioner**

Vs.

ATUL
GANESH
KULKARNI

Digitally signed by
ATUL GANESH
KULKARNI
Date: 2026.04.28
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- 1. State of Maharashtra,**
through it's Principal Secretary,
Housing Department, Mantralaya,
Mumbai – 400 032
- 2. District Deputy Registrar, Cooperative
Societies, Thane, Competent Authority**
appointed under the MOFA, 1963,
having it's office at First Floor,
Gaondevi Vegetable Market Bldg.,
Gokhale Road, Thane (West) 400 602
- 3. Model Colony Cooperative Housing
Society Limited,** claiming to be a
Coop. Housing Society registered
under the Maharashtra Coop. Societies
Act, 1960, claiming to have its address
at Survey No.231, Ward No.77,
Model Colony, Shastri Nagar, Village
Majiwade, Pokharan Road No.1,
Thane (West) – 400 606
- 4. Mina Randhya Dunde**
- 5. Pandurang Randhya Dunde**
- 6. Bhangubai Randhya Dunde**
- 7. Chima Randhya Dunde**

8. **Gulab Vishwas Thakur**
9. **Bhaskar Soma Konde**
10. **Janu Soma Konde**
11. **Raju Soma Konde**
12. **Anandibai Raghunath Vartha**
13. **Ashok Raghunath Vartha**
14. **Santosh Raghunath Vartha**
15. **Kamal Raju Kode,**
respondent Nos.4 to 15, All Adults
Indian Inhabitants, r/at Kode Chawl,
Shastri Nagar, Pokhran Road No.1,
Post J.K. Gram, Thane (West) 400 606
16. **Shreeram Construction Company,**
through Amrutlal Lalji Patel and
Mukesh Amrutlal Patel, shown to
have their office at 304, Doshiwadi,
Agra Road, Ghatkopar, Mumbai 400 086
17. **Ramaadhar Munai Mourya,**
Adult, Indian Inhabitant, shown to have
his address at Survey No.231,
Ward No.77, Shastinagar, Pokhran Road
No.1, Thane (West) – 400 606

... Respondents

Mr. Pradip Thorat, with Mr. Kapil N. Gor, Mr. Tatsat Gor, Mr. Satchit Gor, Mr. Amit Chavan and Mr. Aaryan Gaur i/by Mr. Kapil N. Gor for the petitioner.

Mrs. Mamta Srivastava, AGP for respondent Nos.1 and 2-State.

Mr. Mayur Khandeparkar i/by Mr. S. Anchan for respondent No.3.

Mr. Deelip Boraste for respondent No.17.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 8, 2026.

PRONOUNCED ON : APRIL 28, 2026

JUDGMENT:

1. By the present petition instituted under Articles 226 and 227 of the Constitution of India, the petitioner has called in question the legality, propriety, and correctness of the order dated 13 February 2026 passed by respondent No.2, whereby the application preferred by respondent No.3 came to be allowed and respondent No.2 proceeded to grant unilateral deemed assignment of lease together with issuance of certificate of entitlement in favour of respondent No.3 in respect of part of the larger property admeasuring 5436.80 square metres along with the structure standing thereon.

2. The facts, in brief, to the extent material for adjudication of the present petition, are that late Mr. Manekji Modi, the deceased father of the petitioner, during his lifetime was the lawful owner and person otherwise fully entitled to the larger property, having acquired the same from one Gulvantram in the year 1948. Consequent upon such purchase, the name of late Manekji Modi came to be duly entered and recorded as holder and owner of the said larger property in the relevant revenue record, namely 7/12 extract, vide Mutation Entry No.656. Upon the demise of late Manekji Modi on 1 September 1962, the names of his sole legal heirs, namely late Nargis Manekji Modi being his widow, late Dina Manekji Modi and the present petitioner being his daughters, came

to be mutated in the revenue records as holders and owners of the larger property vide Mutation Entry No.1205 in the relevant 7/12 extract. It is the case of the petitioner that over passage of time approximately 80% of the larger property comprising various survey numbers came to be encroached upon by slum dwellers, who erected several unauthorized hutments and structures thereon. It is further the case of the petitioner that subsequently, and without the knowledge or consent of late Nargis Manekji Modi, late Dina Manekji Modi and the petitioner, being the recorded owners of the larger property, the name of respondent No.16, namely M/s. Shreeram Construction Company through late Mr. Amrutlal Lalji Patel, came to be entered in the 'Other Rights' column of the relevant 7/12 extract vide Mutation Entry No.1889 on the basis of a purported registered Indenture of Lease dated 17 December 1981, registered on 3 May 1983, allegedly executed by Mangibai Govind Vartha and Raghunath Govind Vartha, original opponent Nos.4 and 5, in favour of respondent No.16 for a term of 95 years commencing from 17 December 1981. It is material to note that respondent No.3 had not initially placed on record a copy of the said purported Indenture of Lease dated 17 December 1981 along with the application in question. The said document was subsequently brought on record by respondent No.3 along with its affidavit in reply dated 8 April 2025 filed in Writ Petition No.4408 of 2025. During the rehearing of the matter before respondent No.2 after remand, respondent No.3 placed reliance upon the said purported registered Indenture of Lease dated 17 December 1981 in support of its claim.

3. It further appears from the record that the Grampanchayat, Majiwade, issued a purported permission dated 22 September 1982 in favour of respondent No.16 authorising certain construction activities on the subject property. A copy of the said permission was annexed to the application at page 53 thereof. It is pointed out that the said permission is stated to have been issued even prior to the registration of the alleged Indenture of Lease dated 17 December 1981. After the demise of late Nargis Manekji Modi on 5 May 2000 and thereafter upon the demise of late Dina Manekji Modi, the petitioner claims to have become the sole owner and person exclusively entitled to the larger property. On an application made by the petitioner, the Sub Divisional Officer, Thane by order dated 25 August 2007 was pleased to cancel Mutation Entry No.1889, by which the name of respondent No.16 had been entered in the 'Other Rights' column of the relevant 7/12 extract. Pursuant thereto, Mutation Entry No.2649 came to be effected deleting the name of respondent No.16 from the said column. Aggrieved thereby, respondent No.16 preferred an appeal before the Additional Collector, Thane under Section 247 of the Maharashtra Land Revenue Code, 1966 challenging the said order dated 25 August 2007. Thereafter, by a registered Development Agreement dated 16 June 2009 executed between the petitioner as owner and M/s. Om Shri Sai Construction through its partners as developers, the petitioner granted development rights in respect of, inter alia, a portion of the larger property admeasuring 1 Hectare 38 Ares and 80 points equivalent to 13,880 square metres upon the terms and conditions recorded therein. In furtherance

thereof, the petitioner also executed a Specific Power of Attorney dated 16 June 2009 in favour of the said developers authorising them to undertake acts and deeds in relation to development of the concerned property.

4. Subsequently, by a registered Deed of Rectification Without Additional Consideration dated 27 January 2010 executed between the petitioner and the said developers, certain clauses of the Development Agreement dated 16 June 2009 came to be rectified. Thereafter, by order dated 3 January 2017, the Additional Collector, Thane allowed the appeal preferred by respondent No.16 under Section 247 of the Maharashtra Land Revenue Code and set aside the order dated 25 August 2007 passed by the Sub Divisional Officer, Thane. Consequent thereto, the name of respondent No.16 again came to be reflected in the 'Other Rights' column of the relevant 7/12 extract. Being aggrieved, the petitioner preferred a Revision Application before the Additional Commissioner, Konkan Division challenging the said order.

5. On 19 January 2018, a Memorandum of Understanding came to be executed between the petitioner and the said developers concerning development of the balance land admeasuring 10,000 square meters forming part of the larger property owned by the petitioner, upon the terms and conditions mutually agreed and recorded therein. On or about 27 August 2018, approximately 108 individuals claiming themselves to be purchasers of rooms in chawls standing upon the subject property instituted Special Civil Suit No.450 of 2018 before the Court of

Civil Judge, Senior Division, Thane against the petitioner, the legal heirs of late Amrutlal Lalji Patel and Surabhi Co operative Housing Society Limited, purportedly formed by flat purchasers of Building No.K situated on the said property. By the said suit, the plaintiffs sought, inter alia, a declaration that they along with Surabhi Society had been jointly, openly and uninterruptedly using and occupying the property adverse to the title of the petitioner since the year 1983 to 1984 and had thereby acquired ownership rights in the property by adverse possession.

6. Despite pendency of the aforesaid Special Civil Suit No.450 of 2018, wherein the plaintiffs, who are stated to be members of respondent No.3 society, had claimed declaration of ownership by adverse possession in respect of the subject property, respondent No.3 through its Advocate addressed a notice dated 25 July 2020 calling upon the petitioner, inter alia, to execute conveyance of the said property in favour of respondent No.3, failing which respondent No.3 stated that it would approach respondent No.2 for obtaining deemed conveyance in respect thereof under Section 11 of the Maharashtra Ownership Flats Act. Nearly two years after issuance of the aforesaid notice dated 25 July 2020, and notwithstanding pendency of the said Special Civil Suit No.450 of 2018 as well as receipt of the petitioner's reply dated 2 September 2020, respondent No.3 filed the application before respondent No.2 on 29 March 2022 seeking issuance of certificate declaring that respondent No.3 was entitled to execute and register deed of conveyance by way of assignment of the purported leasehold rights in respect of the said property under Section 11 of the

Maharashtra Ownership Flats Act. According to the petitioner, copy of the said application was never served upon her, and she came to know of the same only in the first week of March 2025.

7. On 14 June 2022, respondent No.2 proceeded to pass an order allowing the application filed by respondent No.3 and issued certificate of entitlement of unilateral deemed conveyance in favour of respondent No.3 in respect of the said property. It is the petitioner's grievance that copy of the said order was also not served upon her, and she acquired knowledge thereof only in the first week of March 2025. After the aforesaid first order was passed by respondent No.2, the plaintiffs in Special Civil Suit No.450 of 2018 moved an application before the Court of Civil Judge, Senior Division, Thane seeking withdrawal of the suit, and accordingly by order dated 22 June 2023 the learned Civil Judge permitted unconditional withdrawal of the said suit. Thereafter, upon hearing the parties, respondent No.2 passed the impugned order dated 13 February 2026 whereby the application of respondent No.3 again came to be allowed and respondent No.2 granted unilateral deemed assignment of lease together with issuance of certificate of entitlement of unilateral deemed assignment of lease in favour of respondent No.3 in respect of the subject property along with the building standing thereon. Being aggrieved thereby, the petitioner has instituted the present writ petition.

8. Mr. Thorat, learned counsel appearing on behalf of the petitioner, submitted that respondent No.2 has ex facie failed to appreciate that none of the documents annexed to the impugned

application constituted agreements for sale within the meaning of Section 4 of the Maharashtra Ownership Flats Act, 1963. According to him, respondent No.16 neither was, nor in law could be regarded as, a “promoter” within the meaning of Section 2(c) of the said Act. It was urged that respondent No.16 admittedly had no authority whatsoever from the owners of the larger property or the subject property, whether under any registered development agreement or otherwise, to undertake construction of chawls or buildings upon the said property. Learned counsel submitted that, on the contrary, pursuant to the orders passed by the competent revenue authorities, the name of respondent No.16 had been deleted from the relevant 7/12 extract pertaining to the larger property. He further contended that in earlier proceedings it had already been concluded that original opponent Nos.4 and 5 themselves had no right, title or interest in the said property and, therefore, the question of the said original opponent Nos.4 and 5 executing any valid lease deed in favour of respondent No.16 did not arise at all.

9. Learned counsel further submitted that respondent No.2 committed manifest error in placing reliance upon the purported commencement certificate dated 22 September 1982 allegedly issued by the Grampanchayat, Majiwade, without considering the settled legal position that a Grampanchayat has no jurisdiction in law to grant construction permissions or building approvals of such nature. It was further contended that none of the units or rooms allegedly sold by respondent No.16 in the chawls or buildings could fall within the definition of “flat” as contemplated

under Section 2(a-1) of the Maharashtra Ownership Flats Act.

10. It was next submitted that the documents annexed to the impugned application were merely third party agreements and were not agreements executed and registered in the form prescribed and mandated under the provisions of the Maharashtra Ownership Flats Act. According to learned counsel, respondent No.2 gravely erred in relying upon such documents, which could by no stretch be equated with duly registered agreements contemplated under the statutory scheme of the Act. It was further urged that in the absence of any occupation certificate, it is evident that the chawls and buildings standing upon the property were unauthorized and illegal constructions, and consequently, no order granting unilateral deemed conveyance in respect thereof could have lawfully been passed by respondent No.2.

11. Learned counsel further submitted that respondent No.3 instituted the impugned proceedings seeking unilateral deemed conveyance despite the pendency of Special Civil Suit No.450 of 2018 before the Court of Civil Judge, Senior Division, Thane, filed by persons who were members of respondent No.3 itself, wherein ownership in respect of the very same property had been claimed by way of adverse possession. It was, therefore, contended that respondent No.3 could not have simultaneously pursued inconsistent remedies in relation to the same property.

12. Per contra, Mr. Khandeparkar, learned counsel appearing for respondent No.3, submitted that there exist in all 53 documents evidencing transactions under the Maharashtra Ownership Flats

Act, out of which seven are direct agreements executed by the promoter in favour of flat purchasers, three are certificates issued by the promoter in favour of flat purchasers for the purpose of securing loans, and 35 are payment receipts issued by the promoter. He further submitted that certain structures were constructed by vendors or contractors engaged by respondent No.16 promoter firm, including S.D. Construction through its proprietor Mr. S.D. Marne, and the recitals in such documents specifically record that portions of the subject property were developed for sale of residential premises admeasuring 240 square feet built up area. According to him, there are eight such agreements on record, which clearly demonstrate the involvement of respondent No.16 in development of the subject property. Learned counsel further submitted that, apart from the aforesaid documents, there are 14 non-agricultural tax bills raised in the name of the promoter annexed to sale agreements entered into inter se between flat purchasers, as well as seven electricity bills standing in the name of the promoter. According to him, these 21 documents conclusively establish that respondent No.16 functioned as the promoter in respect of the subject property. He submitted that all 74 documents forming part of the compilation unmistakably indicate the nexus of respondent No.16 with the project, whether in the nature of agreements, confirmation deeds, letters, non-agricultural tax receipts or electricity bills. He lastly submitted that the photographs on record clearly depict that the buildings comprising respondent society are authorised structures constructed pursuant to approval granted by the Gram Panchayat,

as reflected in the sanctioned plans.

13. Mr. Khandeparkar, placing reliance upon the judgment of the Hon'ble Supreme Court in *Ayaaubkhan Noorkhan Pathan v. State of Maharashtra* reported in (2013) 4 SCC 465, submitted that even according to the petitioner's own case, the petitioner does not claim to be a promoter. He contended that proceedings under the Maharashtra Ownership Flats Act arise solely from rights created under the said statute, and the remedies provided therein are intended only for enforcement of rights conferred upon flat purchasers under the Act. According to him, the petitioner cannot seek to enforce alleged civil or proprietary rights under the guise of challenging proceedings under the Act by invoking writ jurisdiction. He submitted that if the petitioner seeks enforcement of independent civil rights based upon title or ownership, the appropriate remedy available is by way of civil suit. In support of the said submission, reliance was also placed on the decisions of this Court in *Shimmering Heights CHS Ltd & Ors. vs. State of Maharashtra* (Writ petition No.3129 of 2016, decided on 6 April 2016), *Zainul Abedin Yusufali Massawalla & Ors. vs. Competent Authority, District Deputy Registrar of Cooperative Housing Societies, Mumbai & Ors*, 2016 SCC OnLine Bom 6028, and *P.R. Enterprises & Anr. vs. Competent Authority & Anr.* (Writ Petition No.1125 of 2016, decided on 27 November 2018).

14. Referring specifically to paragraphs 9 and 10 of the aforesaid judgment, learned counsel submitted that the expression "person aggrieved" has been judicially interpreted to mean a person whose legal right or legally protected interest stands affected or

jeopardised. Proceeding on the said basis, he submitted that the petitioner cannot be treated as a person aggrieved in the present proceedings and that, in any event, the petitioner's proper remedy lies in approaching the competent Civil Court for adjudication of his alleged civil rights.

REASONS AND ANALYSIS:

15. I have considered the rival submissions advanced by the learned advocates appearing for the respective parties.

16. The statutory provisions of the Maharashtra Ownership Flats Act are required to be read as legislative scheme framed for curing a social and economic mischief prevailing in the State. The opening recital records that due to acute shortage of housing in various parts of Maharashtra, many abuses, malpractices and difficulties had arisen in relation to promotion of construction, sale, management, and transfer of flats on ownership basis. Thus, the Legislature proceeded after noticing hardship suffered by ordinary purchasers who were paying monies for homes, yet remaining exposed to exploitation. The preamble further shows that the State Government had appointed a Committee in the year 1960 to suggest corrective measures. Only after examining such recommendations was the present enactment brought into force. This legislative history demonstrates that the Act is a beneficial legislation intended to discipline the housing market and to protect flat takers from stronger parties. Therefore, whenever ambiguity arises interpretation must lean in favour of advancing the remedy and suppressing the mischief which the Legislature had

noticed. Therefore, while construing the provisions it must be ensured that genuine purchasers receive protection.

17. Section 2(a-1) defines the expression “flat”. The definition means a separate and self-contained set of premises used or intended for residence, office, showroom, shop, godown or even carrying on industry or business. It includes garage and apartment. It indicates that the Act was not confined only to residential apartments in modern buildings. Premises sold in mixed use buildings, commercial units, small tenements and other forms of occupation were common. The explanation to Section 2(a-1) states that even where sanitary, washing, bathing or other conveniences are common to two or more premises, such premises shall still be deemed separate and self-contained. In many older constructions, chawls, or budget housing, common toilets or common utility spaces are ordinary features. If common amenities alone were treated as disqualification, large classes of purchasers would fall outside statutory protection. In matters where parties contend that rooms, chawls, blocks or compact units are not flats, the Court must examine substance. If premises are separately occupied, separately sold, and intended as independent units of use, then the nomenclature used in old documents may not be decisive. A promoter cannot escape the Act merely by calling the premises a room, chawl portion, cabin or unit.

18. Section 2(c) defines “promoter”. This definition includes an individual person, partnership firm, body, or association whether registered or not, who constructs or causes to be constructed a block or building of flats for the purpose of selling some or all of

them. It includes assignees. It further clarifies that where the builder and seller are different persons, both are included. The words “constructs or causes to be constructed” are of importance. They cover not only a person raising the structure, but also one who gets it developed through contractors or agents. Therefore, a person cannot say that since labour was employed through others, he is outside the statute. A person dealing with the public as developer and seller of flats may attract statutory obligations.

19. Section 4 requires that before accepting advance payment, the promoter must enter into a written agreement for sale with each purchaser, and such agreement must be registered and in prescribed form. Registration is insisted upon as it carries authenticity and public notice. It reduces disputes about consideration, area, possession date, amenities or title promises. However, statutory requirement under Section 4 is tempered by Section 4A. This provision states that where an agreement for sale remains unregistered for any reason, it may still be received in evidence for specified purposes, such as specific performance, part performance under Section 53A of the Transfer of Property Act, or collateral transactions. Section 4A recognises that an agreement though unregistered may still be receivable for certain purposes. The legislative policy therefore does not treat non-registration as extinguishment of transaction. It acknowledges rights. Hence, when Section 11(3) is applied the authority must read procedural requirements in the light of the object of Act. Accordingly, where documentary material shows that flats were sold, consideration was accepted, possession was handed over, society was formed and

members entered occupation, the Competent Authority is entitled to examine entitlement. The deemed conveyance mechanism is welfare legislation. The promoter's signature on conveyance is required because title must pass through instrument. But where such signature is withheld, the statute creates a legal process. The Competent Authority certifies entitlement and unilateral deemed conveyance is executed.

20. Sub-section (3) of Section 11 provides a remedy in a situation where the promoter fails to execute conveyance in favour of the co-operative society, company, association of flat purchasers or apartment owners. This provision is of importance because the Legislature was conscious that many promoters complete construction, collect full consideration, hand over possession, and thereafter postpone transfer of title. In such cases, the society remains in possession of the building but without ownership of land and structure. Therefore, the Legislature created a remedy enabling members of the society or other recognised body to approach the Competent Authority for issuance of certificate entitling them to unilateral deemed conveyance. The scheme of sub-section (3) also shows that the Legislature did not intend purchasers to remain helpless till promoter cooperates. Therefore, once the statutory conditions are satisfied, the authority is expected to complete the transfer process.

21. The expression "other relevant documents" occurring in sub-section (3) carries significance. The Legislature intentionally did not restrict the applicant only to one type of evidence. It recognised that housing projects differ in age and nature.

Therefore, the section permits production of “other relevant documents”. These words allow the authority to consider documents such as allotment letters, possession receipts, share certificates, payment receipts, approved plans, tax records, occupation evidence and other surrounding material depending upon facts of each case. If “other relevant documents” are read in a restricted manner, the words become otiose. Courts avoid construction rendering statutory words otiose. Hence, where applicants produce documentary material connecting them to the project and showing promoter’s obligations, the authority must consider the same. The section also refers to occupation certificate, if any. These two words, namely “if any”, are of clear consequence. They indicate that the Legislature was aware that in some cases occupation certificate may not have been issued or may not be available. Therefore, where occupation certificate is unavailable, remedy under Section 11(3) does not collapse. The authority must then examine other evidence to ascertain whether building was completed, occupied, or otherwise delivered to purchasers. The Court cannot read “if any” out of the statute. Those words were inserted to avoid injustice.

22. Though sub-section (3) mentions true copies of registered agreements for sale executed with the promoter, this requirement must be read harmoniously with the object of the Act and with Section 4A. Section 4 imposes duty upon promoter to execute registered agreements. If promoter breaches that duty, it would be unjust to deny remedy to purchasers on the ground created by promoter’s own wrongdoing. Such interpretation would defeat

legislative purpose. If promoter executes no agreements, destroys records, withholds papers and later says society cannot seek conveyance because registered agreements are absent, then statutory protection becomes illusory. Therefore, while registered agreements are important, their absence due to promoter default cannot conclude the matter against purchasers.

23. First submission canvassed by Mr. Thorat for the petitioner deserves consideration that proceedings under the Maharashtra Ownership Flats Act must rest upon legal documents. The statute contemplates a promoter, flat purchasers, agreements for sale, and obligations arising from it. Mr. Thorat has also pointed out that respondent No.16 had no registered development agreement, no express authorization, and no documented authority from the owners to raise construction upon the land. The further submission regarding correction of revenue records and deletion of the name of respondent No.16 from the relevant 7/12 extract also requires consideration. It is true that revenue entries do not by themselves confer title nor extinguish title. Yet such entries are relevant to indicate possession.

24. Still while considering the petitioner's objections, this Court cannot lose sight of the material placed on behalf of respondent No.3. Mr. Khandeparkar has produced agreements, certificates, receipts, non-agricultural tax bills, electricity bills and allied papers. Seven direct agreements, three certificates issued for loan purposes, thirty-five payment receipts, eight agreements relating to structures developed through contractors or vendors connected with respondent No.16, fourteen non-agricultural tax bills and

seven electricity bills are relied upon. These documents are projected as showing a continuous and connected relationship of respondent No.16 with the development activity. Though all such documents indicate that respondent No.16 was not a stranger to the project. They show involvement in construction activity, receipt of monies from purchasers, issuance of papers for finance purposes, and dealings with authorities regarding taxes and utilities. Therefore, such material cannot be discarded merely because one would prefer a ideal documentary chain. Summary authorities are entitled to look at surrounding conduct and practical dealings.

25. The submission that respondent No.16 acted as promoter also gets support from the manner in which these documents came into existence. The Court must look to substance and not merely headings of documents. If a person issues certificates to purchasers, receives consideration from them, deals with taxes and electricity matters in relation to the premises, permits occupation and is associated with construction, then a inference may arise that such person had assumed a position akin to promoter. Such inference may not settle title or ownership, but for purposes of summary proceedings under the Maharashtra Ownership Flats Act, it carries relevance. Therefore, respondent No.2 cannot be said to have acted upon no material.

26. The petitioner's argument is that the Grampanchayat lacked authority to grant construction permission. In the present case the existence of such permission appears to be one component of the material considered by respondent No.2 and not the sole basis of

the impugned order. Even if one keeps aside that permission altogether, there still remain several other documents indicating transactions and developmental connection between respondent No.16, the purchasers and the property. Hence, the impugned order cannot be invalidated merely because one item of material is questioned. The real enquiry is whether there existed material enabling exercise of jurisdiction. On that test, the record does not disclose absence of basis.

27. The contention that the units sold by respondent No.16 were chawls and not flats within Section 2(a-1) also requires consideration. Such submission cannot be accepted in mechanical manner. The statutory expression must be understood with reference to nature of the premises and transactions. If residential accommodation of built-up area was sold for consideration and purchasers were dealt with as allottees of premises, then the mere use of the word chawl may not exclude operation of the Act. Substance of occupation and transaction is relevant.

28. There is also force in the submission of respondent No.3 that the petitioner cannot convert the present writ petition into a fullfledged title suit. In that context I have carefully examined the law declared by the Supreme Court in *Arunkumar H. Shah v. Avon Arcade Premises Coop. Society Ltd., reported in (2025) 7 SCC 249*. The said pronouncement furnishes guidance on the true scope, extent, limitation and character of the powers exercisable by the competent authority under Section 11 of the Maharashtra Ownership Flats Act. Once the Supreme Court has interpreted the statutory provision in clear terms, this Court while exercising

jurisdiction under Articles 226 and 227 cannot proceed on any wider assumption inconsistent with such declaration. Therefore, the present petition must be examined through the lens of the law so declared.

29. The Supreme Court has explained that Section 11(1) casts a obligation upon the promoter to complete all title formalities and thereafter convey right, title, and interest in the land and building in favour of the society, company, association of flat takers or apartment owners, as the case may be. Thus, the object of Section 11 is not to create a new title, but to enforce an already existing statutory duty resting upon the promoter. The competent authority does not sit as a regular civil court to pronounce ownership or to settle claim between contesting parties. Its function is narrower. It ensures that purchasers, who have already acquired flats and formed their legal body, are not deprived of the conveyance which the promoter was under legal obligation to execute. The Supreme Court has held that Section 11(3) provides a remedy to the society in cases where the promoter fails to discharge the obligation contained in Section 11(1).

30. The procedure under the Rules has also been noticed in detail by the Supreme Court. The procedure remains limited, expedited and document oriented. It is not comparable to a civil trial involving oral evidence and cross examination of witnesses, framing of issues, and adjudication of title disputes. The legislature created a faster route because delay in conveyance itself was the mischief requiring remedy. The Supreme Court has held that though quasi judicial powers are conferred, the proceedings

continue to be summary in character. Since cross-examination is barred and the process is intended to be time-bound, the competent authority cannot conclusively determine disputed questions of title. This principle answers many contentions urged in such matters. Where rival parties seek pronouncement on ownership, derivative rights, succession claims, or inter se proprietary disputes, such matters belong to the jurisdiction of a civil court. The competent authority under Section 11 cannot transform itself into a court of title adjudication. Its findings in summary proceedings cannot substitute a civil decree rendered after evidence.

31. Therefore, when the petitioner contends that respondent No.16 had no title, that predecessor parties had no competence to execute any lease, that revenue entries were deleted, or that the structures were unauthorized, they touch questions of legal source, ownership and legality of possession. However, in light of the Supreme Court pronouncement, such issues cannot be expected to be finally decided by respondent No.2 in proceedings under Section 11. The authority could only examine whether sufficient prima facie material existed to grant or refuse deemed conveyance. Therefore, failure to decide such disputes cannot by itself invalidate the proceedings.

32. The Supreme Court has also stated that reasons must be recorded by the competent authority while passing an order under Section 11. Reasons demonstrate application of mind. Reasons show that objections were considered. Reasons enable parties to understand why they succeeded or failed. Reasons also permit

judicial review by higher courts. In absence of reasons an order may appear arbitrary. Therefore, while this Court will not substitute its own view for that of the authority merely because another conclusion is possible, it must still examine whether the impugned order discloses consideration of relevant material and whether reasons are furnished for the conclusion reached.

33. Most importantly, the Supreme Court in paragraph 45.3 has held that in writ jurisdiction the Court should not interfere with an order granting deemed conveyance unless the same is manifestly illegal, and that the writ court should generally remain slow in interfering with such orders. The reason supplied by the Supreme Court is weighty. Even after an order under Section 11(4), aggrieved parties retain the remedy of filing a civil suit for establishing their rights. Thus, the statutory arrangement balances interests in a practical manner. Purchasers obtain a statutory remedy for conveyance, while rival claimants are not shut out from asserting title in civil court. Hence, extraordinary writ jurisdiction is not intended to unsettle such orders.

34. This principle bears relevance to the present petition. The petitioner seeks reopening of several disputed factual matters concerning ownership of the property, competence of executants of the lease deed, legality of construction, effect of revenue entries, and promoter status of respondent No.16. Many of these matters may indeed require evidence and trial. But once civil remedy remains available in law, writ jurisdiction is not intended to become a substitute for a suit. Unless the impugned order is shown to be manifestly illegal, wholly without jurisdiction, passed in

breach of natural justice, or based on no material whatsoever, interference would run contrary to the caution administered by the Supreme Court.

35. The Supreme Court has clarified that the expression “promoter” under Section 2(c) includes a person, partnership firm, body or association which constructs or causes to be constructed a building consisting of flats or apartments. Therefore, promoter status is not confined to owner of land. A person who undertakes construction, causes construction through others, manages development activity, enters into transactions with purchasers, or otherwise functions in that capacity may fall within its ambit. Ownership and promoter status may overlap, but they are not always identical.

36. Applying these principles, if respondent No.2 considered agreements, receipts, certificates, tax records, electricity bills and other documents indicating developmental involvement of respondent No.16, it cannot be said that the authority acted on no evidence. Whether such evidence is sufficient to establish title is an entirely different matter. But for summary proceedings under Section 11, the authority was entitled to examine whether the material disclosed existence of a promoter purchaser relationship sufficient to invoke the statutory remedy. If some relevant material existed, mere disagreement on weight of evidence would not justify writ interference.

37. Likewise, the petitioner’s objections regarding validity of lease deed, entitlement of predecessor parties, source of title and

legality of occupation are not rendered meaningless by dismissal of writ challenge. They may be pursued before the civil forum where oral and documentary evidence can be led, witnesses tested, and disputed facts adjudicated. The Supreme Court has preserved such remedy. Therefore, refusal to interfere in writ jurisdiction would not amount to extinguishment of proprietary claims.

38. Thus, the test before this Court is whether the impugned order is manifestly illegal. Whether respondent No.2 travelled beyond statutory limits. Whether reasons are absent. Whether the order rests on absence of material. Whether principles of natural justice were breached causing prejudice. Whether the authority ignored mandatory statutory conditions. Unless such grounds are established, interference in supervisory jurisdiction must remain restrained. Writ review is concerned with legality of decision-making process, not re trial of factual controversy.

39. Having regard to the record and the law laid down in *Arunkumar H. Shah*, the present controversy cannot be approached as if respondent No.2 was required to render a final judgment on title between all claimants. The authority was required only to decide a summary statutory application intended for benefit of flat purchasers under the scheme of the Act. The petitioner's broader civil disputes remain open before appropriate forum in accordance with law.

40. The decision in *Ayaaubkhan Noorkhan Pathan* explains that a person aggrieved is one whose legal right or interest is affected. Decisions of this Court in *Shimmering Heights CHS Ltd. v. State of*

Maharashtra, Zainul Abedin Yusufali Massawalla v. Competent Authority and P.R. Enterprises v. Competent Authority indicate that where grievance concerns civil rights, title or ownership, remedy may lie in civil forum and not always by writ proceedings. The petitioner asserts ownership, disputes leasehold source, contests promoter status and challenges legality of construction. These are matters requiring evidence, testing of documents, and possibly oral proof. Such matters are not ordinarily capable of final adjudication in supervisory jurisdiction.

41. At the same time, this Court is not laying down that every order under the Maharashtra Ownership Flats Act is beyond challenge. If the competent authority acts upon wholly irrelevant material, ignores statutory requirements, violates natural justice, or grants relief in excess of jurisdiction, the writ court can interfere. However, that is not the situation emerging here. The impugned order is supported by a bundle of documents which collectively disclose presence of respondent No.16 as a person associated with development and purchasers who have been dealing with the property over a considerable period. Whether such material ultimately establishes title is another matter, but it does provide basis for summary consideration.

42. The dispute regarding validity of lease deed, original ownership, legality of structures, and plea of adverse possession all raise mixed questions of fact and law. They require detailed enquiry and perhaps evidence. Respondent No.2, while exercising powers under Section 11, was not expected to determine the entire title dispute for all times to come. The pendency of Special Civil

Suit No.450 of 2018 also does not nullify proceedings under the Act. It does show that civil controversy existed. It shows that some persons associated with respondent No.3 had taken a plea of adverse possession. Once the suit came to be withdrawn and once the authority had before it documentary material indicating promoter like dealings, respondent No.2 cannot be said to have lost jurisdiction.

43. The petitioner has emphasized that several documents are third party documents and not proper registered agreements under the Act. The authority is entitled to consider totality of conduct and records. Where there are direct agreements, receipts, certificates, tax bills and electricity bills, it cannot be said that nothing existed on record. The issue is whether respondent No.2 had some relevant material to arrive at a conclusion. In the facts of present matter, the answer must be in the affirmative.

44. Having considered the controversy in its legal setting, this Court finds that the petitioner has invited this Court to reappreciate the dispute relating to title, authority, lease source, promoter status and legality of construction. Such an exercise travels beyond the limits of jurisdiction under Articles 226 and 227 when the statutory authority has acted upon a material and where the controversy itself is factual.

45. For all the aforesaid reasons, this Court is of the considered view that the challenge to the impugned order cannot succeed. The reasoning adopted by respondent No.2 cannot be described as so unreasonable, perverse, or unsupported by record as to justify

quashing in exercise of extraordinary jurisdiction. The petition, therefore, does not merit acceptance and is liable to be dismissed.

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

- (i) The writ petition stands dismissed;
- (ii) Rule is discharged;
- (iii) The impugned order dated 13 February 2026 passed by respondent No.2 granting certificate of entitlement of unilateral deemed assignment of lease in favour of respondent No.3 is upheld, subject to observations made in this judgment;
- (iv) It is clarified that the findings recorded by respondent No.2 and the observations contained in the present judgment are confined to the limited scrutiny of proceedings under Section 11 of the Maharashtra Ownership Flats Act and shall not be construed as final adjudication of title, ownership, validity of leasehold rights, succession claims, or any other proprietary dispute inter se the parties;
- (v) It is further clarified that all contentions of the petitioner and of the contesting respondents on questions of title, authority, possession, legality of structures, and all connected civil rights are expressly kept open to be agitated before the competent civil forum, if so advised, in accordance with law;

(vi) If any civil proceedings are instituted, the competent forum shall decide the same on their own merits and in accordance with law, uninfluenced by the observations made in the impugned order or in the present judgment, except to the extent of the limited statutory scope under the Maharashtra Ownership Flats Act;

(vii) In the facts and circumstances of the case, there shall be no order as to costs;

(viii) Pending interim applications, if any, do not survive and stand disposed of accordingly.

(AMIT BORKAR, J.)