

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 267 OF 2026

Waves Cooperative Housing Society Through Swapnil Sidram Wadaganve ..Applicant

Versus

M/s Pashankar Buildcon Through Partner Ashok Ramesh Pashankar ...Respondent

Mr. Shreyas Deshpande, i/b Priyanka Ashok Deshpande, for the Applicant.

Mr. Hishchal S Anand, with Shubham Bhosle, for the Respondent.

CORAM: N. J. JAMADAR, J.

DATE : 5th MAY 2026

ORAL ORDER:

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to an order passed by the learned Civil Judge on 12th January 2026, whereby an Application for rejection of the Plaint under the provisions of Order VII Rule 11 of the Code of Civil Procedure, 1908 (“the Code”) on the ground that the Suit is barred by the provisions of Section 13E of the Maharashtra Ownership of the Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer), Act, 1963 (“MOFA, 1963”), came to be rejected.
3. The learned Counsel for the Applicant submitted that in Special Civil Suit No. 2326 of 2025, Respondent Nos. 1 and 2-the Promoter has

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essentially challenged the order of Certificate of Unilateral Deemed Conveyance, granted by Respondent No.3 under the provisions of Section 11 of the MOFA, 1963. Thus, in view of the bar contained in Section 13E of the MOFA, 1963, the Civil Court's jurisdiction is expressly barred.

4. I have perused the averments in the Complaint especially paragraphs 13 and 14 of the Complaint.

5. The essential challenge in the suit is to the grant of an area in excess of the entitlement of the Petitioner in the face of the construction of more than one buildings/societies in a layout.

6. The remit of the jurisdiction of the Competent Authority under Section 11 of the MOFA, 1963 is well recognized. The Competent Authority is neither expected nor competent to delve into the question of title. It is equally well recognized that, if a party is aggrieved by the grant of a Certificate of Unilateral Deemed Conveyance, the party is entitled to institute a properly constituted suit before the Civil Court.

7. A useful reference in this context can be made to the judgment in the case of **Arunkumar H Shah HUF Vs Avon Arcade Premises Coop Society Ltd**,¹ wherein Supreme Court expounded the nature and import of the proceeding before the Competent Authority, as under:

¹ (2025) 7 SCC 249.

“20. It is undoubtedly true that quasi-judicial powers have been conferred upon the competent authority while dealing with applications under Section 11(3) of the MOFA. However, proceedings before the competent authority under Section 11(3) are of summary nature, as can be seen from the MOFA Rules. Even cross-examination of the parties is not permissible. There is an absolute prohibition under Rule 13(5) on cross-examination of parties. Thus, it follows that the competent authority, while following the summary procedure, cannot conclusively and finally decide the questions of title. Therefore, notwithstanding the order made under sub-section (4) of section 11, aggrieved parties can always file a civil suit for establishing their rights.”

(emphasis supplied)

8. Applying the aforesaid principles to the facts of the case at hand, it becomes abundantly clear that the challenge in the Suit is to the entitlement of the Applicant-society to the area for which the Certificate of Unilateral Deemed Conveyance has been granted by the Competent Authority. Such a challenge is within the remit of the plenary and omnipresent jurisdiction of the Civil Court.

9. The learned Civil Judge has taken a correct view of the matter.

10. Thus, the Application stands dismissed.

[N. J. JAMADAR, J.]