

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 284 OF 2026

T Bhimjyani Realty Pvt Ltd ..Applicant
Versus
Sunil Madhukarrao Suradkar and Anr ...Respondents

Mr. Pravin Samdani, Senior Advocate, with Mayur Khandeparkar,
Manish Parekh and Dhyan Shah, i/b Purnanand & Co, for the
Applicant.

Mr. Surel Shah, Senior Advocate, with Pankaj Sutar, Santosh Avhad
and Rishi Patodia, i/b Jayakar and Partners, for the
Respondents.

CORAM: N. J. JAMADAR, J.
DATE : 9th JUNE 2026

ORAL ORDER:

1. Heard Mr. Pravin Samdani, the learned Senior Advocate for the Applicant, and Mr. Surel Shah, the learned Senior advocate for the Respondents.

2. The challenge in this Petition is to an order dated 17th March 2026 passed by the learned Civil Judge, Senior Division, Thane, whereby an Application preferred by the Applicant-Defendant for rejection of the Plaint on the ground that the Civil Court has no jurisdiction to entertain the suit in view of the provisions contained in

ARUN
RAMCHANDRA
SANKPAL

Digitally signed by
ARUN
RAMCHANDRA
SANKPAL
Date: 2026.06.12
16:57:55 +0530

Section 79 of the Real Estate (Regulation and Development) Act, 2016 (“RERA 2016”), came to be rejected.

3. The Respondent has instituted a suit seeking the enforcement of the purported statutory obligations of the Defendants under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management And Transfer) Act, 1963 (“MOFA 1963”) and a direction to form and register the cooperative society of all the Villa-takers and also to convey the land and buildings in favour of such society within such time as may be stipulated by the Court.

4. The learned Civil Judge was persuaded to reject the Application observing, *inter alia*, that Maharashtra Ownership Flats (Regulation of the Promotion of construction, sale, management and transfer) (Amendment and Validation) Act, 2025 (“MOFA 2025”) which inserted Section 11A with retrospective effect from 1st May 2016, would not exclude the jurisdiction of the Civil Court as the suit was instituted in the year 2015. Thus, the Civil Court will have the jurisdiction to entertain, try and decide the suit.

5. Mr. Samdani, the learned Senior Advocate for the Applicant, would submit that though the suit was instituted before the coming into force of RERA 2016, yet, in view of the provisions contained in Maharashtra Housing (Regulation and Development) Act, 2014

(“MHRDA 2014”), the provisions contained in MOFA 1963 stood impliedly repealed.

6. Secondly, according to Mr. Samdani, in view of Rule 9 of the RERA Rules 2017, read with Section 79 of the RERA 2026, the jurisdiction of the Civil Court stands completely excluded. In view of the provisions contained in Rule 9(2) (iii) of the Rules, where multiple buildings formed part of a layout, the conveyance has to be in favour of the Federation of co-operative societies or Holding entity. These aspects were not considered by the learned Civil Judge, urged Mr. Samdani.

7. In opposition to this, Mr. Surel Shah, the learned Senior Advocate, for Respondent-Plaintiff would submit that none of the grounds sought to be urged on behalf of the Applicant deserve consideration. Both the contentions sought to be urged on behalf of the Applicant have been expressly negated by the judgments of this Court

8. On the count of the purported bar under MHRDA 2014, Mr. Shah placed reliance on the judgment of a learned Single Judge of this Court in the case of **Flagship Infrastructure Limited and Anr Vs Competent Authority, District Deputy Registrar of the Cooperative Societies and Anr**,¹ wherein after reference to another judgment of this Court in the **Dosti Corp Vs Sea Flama Coop Housing Society Ltd**,² it was reiterated

1 2025 SCC OnLine Bom 1240.

2 SCC OnLine Bom 1836.

that the provisions of MOFA 1963 cannot be said to have been impliedly repealed by the provisions of the MHRDA, 2014.

9. Secondly, Mr. Shah would urge that the remedies under the MOFA 1963 are distinct in nature and enforceable even post enactment of RERA 2016. To this end, reliance was placed on the judgment of a learned Single Judge of this Court in **Hubtown Limited Vs MCGM & Ors.**³

10. Having considered the averments in the plaint and the objections raised to the jurisdiction of the Civil Court, this Court finds that the questions of law sought to be urged on behalf of the Applicant do not strictly arise for consideration in the instant matter. Indisputably, the suit was instituted in the year 2015 before the enactment of RERA 2016. Thus, on first principles, in the absence of any provision in RERA 2016, which mandates the transfer of pending proceedings to the Real Estate Regulatory Authority constituted under RERA 2016, there can be no impediment for the trial of the suit instituted before the enactment of RERA 2016.

11. It is also necessary to note the proviso to Section 17 of RERA 2016 which provides for transfer of title by execution of conveyance, saves the application of local laws. The provisions of Section 88 of RERA 2016 also deserve to be noted as it is expressly provided therein

³ Original Side Interim Application (L) No. 16519 of 2021 in Suit No. 96 of 2023, decided on 9th May 2024.

that the provisions of RERA 2016 shall be in addition to, and not in derogation of, any other law. MOFA, 1963 provides certain remedies which are special in nature.

12. In this view of the matter, the objections on behalf of the Defendant to the jurisdiction of the Civil Court were not well grounded in facts and law.

13. Thus, the learned Civil Judge cannot be said to have committed any error in rejecting the Application for rejection of the Plaint. Since there is neither any jurisdictional error nor any material irregularity in the exercise of jurisdiction by the trial Court, the Civil Revision Application does not deserve to be entertained.

14. Civil Revision Application stands dismissed.

[N. J. JAMADAR, J.]