

AGK

ATUL
GANESH
KULKARNI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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ATUL GANESH
KULKARNI
Date: 2026.02.24
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WRIT PETITION NO.1673 OF 2022
WITH
INTERIM APPLICATION NO.3546 OF 2023

Paramanand Builders LLP.,

A Limited Liability Partnership constituted
under the Limited Liability Partnership Act,
2018 having its address at CTS No.905, ECT,
Agarwal Tower, Piramal Nagar, Village-
Pahadi, Goregaon (West), Mumbai 400 062
M/s. Parmanand Buildings Pvt. Ltd.
Current address not known
Last known address is Plot No.26/A,
Ratan Nagar, S.V. Road, Dahisar (East),
Mumbai 400 068.

... Petitioner

V/s.

- 1. Competent Authority & District Deputy Registrar,** Cooperative Societies, Mumbai City (4), having it's office at 2nd Floor, Bhandari Coop. Bank, P.L. Kale Guruji Marg, Dadar West, Mumbai 400 028.
- 2. Siddhraj Coop. Housing Society Ltd.,** A registered coop. Society having address at Plot No.A22, Ratan Nagar, Near Premji Nagar & Daulat Nagar, S.V. Road, Borivalli (East), Mumbai 400 066.
- 3. B.M. Vadgama & Others,** Are holders and members of Ratan Cooperative Housing Society Limited

and allottees of plot No.A-22 of estate of society, current address not known, Last known address is Plot No.A-22, Ratan Nagar, S.V. Road, Borivali (East), Mumbai – 400 066

4. Pattan Jain Mandal,

A Trust to be allottees of residential units on plot No.A 22 of estate of society, Current address not known, Last known address is Plot No.A-22, Ratan Nagar, S.V. Road, Borivali (East), Mumbai – 400 066

5. Ratan Coop. Housing Society Limited

Alias Rattan Coop. Housing Society Ltd. Current address not known, Last known address is Plot No.A-22, Ratan Nagar, S.V. Road, Borivali (East), Mumbai – 400 066

... Respondents

**WITH
WRIT PETITION NO.2657 OF 2022**

Paramanand Builders LLP.,

A Limited Liability Partnership constituted under the Limited Liability Partnership Act, 2018 having its address at CTS No.905, ECT, Agarwal Tower, Piramal Nagar, Village-Pahadi, Goregaon (West), Mumbai 400 062

M/s. Parmanand Buildings Pvt. Ltd.

Current address not known

Last known address is Plot No.26/A, Ratan Nagar, S.V. Road, Dahisar (East), Mumbai 400 068.

... Petitioner

V/s.

1. Competent Authority & District Deputy

Registrar, Cooperative Societies,
Mumbai City (4), having it's office
at 2nd Floor, Bhandari Coop. Bank,
P.L. Kale Guruji Marg, Dadar West,
Mumbai 400 028.

**2. Patan Jain Mandal Cooperative
Housing Society Ltd.,**

A registered coop. Society having
address at Plot No.A20-21,
Survey No.222, Ratan Nagar,
Near Premji Nagar, Borivalli (East),
Mumbai 400 066.

3. B.C. Mehta & Others,

Are holders and members of Ratan
Cooperative Housing Society Limited
and allottees of plot No.A-20-21
of estate of society,
current address not known,
Last known address is Plot No.A-20-21,
Ratan Nagar, S.V. Road, Borivali (East),
Mumbai – 400 066

4. Pattan Jain Mandal,

A Trust to be allottees of residential
units on plot No.A 22 of estate of
society, Current address not known,
Last known address is Plot No.A-22,
Ratan Nagar, S.V. Road, Borivali (East),
Mumbai – 400 066

5. Ratan Coop. Housing Society Limited

Alias Rattan Coop. Housing Society Ltd.
Current address not known,
Last known address is Plot No.A-26/A,
Ratan Nagar, S.V. Road, Borivali (East),
Mumbai – 400 066

... Respondents

**WITH
WRIT PETITION NO.2656 OF 2022**

Paramanand Builders LLP.,

A Limited Liability Partnership constituted under the Limited Liability Partnership Act, 2018 having its address at CTS No.905, ECT, Agarwal Tower, Piramal Nagar, Village-Pahadi, Goregaon (West), Mumbai 400 062
M/s. Parmanand Buildings Pvt. Ltd.

Current address not known

Last known address is Plot No.26/A,
Ratan Nagar, S.V. Road, Dahisar (East),
Mumbai 400 068.

... **Petitioner**

V/s.

- 1. Competent Authority & District Deputy Registrar,** Cooperative Societies, Mumbai City (4), having it's office at 2nd Floor, Bhandari Coop. Bank, PL. Kale Guruji Marg, Dadar West, Mumbai 400 028.
- 2. Shri Sai Sadguru Coop. Housing Society Ltd.,** A registered coop. Society having address at Plot No.A 26, Ratan Nagar, S.V. Road, Dahisar (East), Mumbai 400 068.
- 3. Shree Sadguru Enterprises,** Promoters/Developers, A Proprietorship Partnership firm having address as per Agreement – 17/27, Bhanubhai Chawl, Standard Mills Place, New Prabhadevi Road, Bombay 400 025
- 4. Jagdishnarayan Agarwal**
- 5. Jamnadas Agarwal,**

Both (4) & (5) are holders & members of Ratan Coop. Housing Society Ltd. and allottees of Plot No.26 of Estate of Society, current address not known Last known address is Plot No.A 26/A, Ratan Nagar, S.V. Road, Dahisar (East), Mumbai 400 068.

- 6. Ratan Coop. Housing Society Limited**
Alias Rattan Coop. Housing Society Ltd.
Current address not known,
Last known address is Plot No.A-22,
Ratan Nagar, S.V. Road, Borivali (East),
Mumbai – 400 066

... Respondents

**WITH
WRIT PETITION NO.4375 OF 2022**

Geopreneur Corp. Private Limited,
(formerly known as Ashish Builders Pvt. Ltd.) through it's Director, Mr. Rohan Agarwal, having its registered office at Gala No.1001, 10th Floor, First Avenue, Opp. Inorbit Mall, CTS No.1199/E of Village Malad, Link Road, Malad (West), Mumbai – 400 064

... Petitioner

V/s.

- 1. Competent Authority & District Deputy Registrar,** Cooperative Societies, Mumbai City (4), having it's office at 2nd Floor, Bhandari Coop. Bank, P.L. Kale Guruji Marg, Dadar West, Mumbai 400 028.
- 2. Jai Ashish Coop. Housing Society Ltd.,** through Chairman / Secretary,

having its office at D.N. Dube Road,
A/18, Ratan Nagar, Dahisar (East),
Mumbai 400 068.

3. Rattan Coop. Housing Society Ltd.,

Ratan Nagar, Dahisar (East),
Mumbai 400 068

(a) Mr. Nitin Chandrakant Patel,
Secretary of Rattan CHS Ltd.,
having address at 42/9, Jawahar
Nagar, Goregaon (West),
Mumbai – 400 062.

(b) Mr. Kailash C. Jain
Chairman of Rattan CHS Ltd.,
having address at 42/9, Jawahar
Nagar, Goregaon (West),
Mumbai – 400 062.

4. Sanjay Shah,

having his address at 9, Dhoop Chhaon,
3 Meera Baug, Santacruz West,
Mumbai 400 054. ALSO AT
4/5 Dhoop Chhaon, 3 Meera Baug,
Santacruz (West), Mumbai 400 054.

5. M/s. Param Anand Builders Pvt. Ltd.

alias M/s. Paramanand Builders Pvt.
Ltd. Shreepal Industrial Estate,
Oshiwara, S.V. Road, Jogeshwari (W),
Mumbai 400 102

OR

Agarwal Golden Compound,
Fun Republic Road, Plot No.13/A
Behind Balaji Telefilms, Off. New Link
Road, Andheri (W), Mumbai 400 053

- 6. i) a) Rajkumar Sheth**
b) Prakash Sheth

- c) Janakraj Sheth
- d) Dharampal Sheth
- e) Ramesh Sheth
- f) Naresh Sheth

ii) Shree Gowardhan Sansthan Limited,
Wai Pune, Mumbai.

- iii)**
- a) Kulbhushan Jain
 - b) Sumatiprashad Jain
 - c) Sheetal Prashad Jain
 - d) Shadilal Jain
 - e) Rajendra Bhushan Jain
 - f) Ratan Bhushan Jain
 - g) Munimal Motilal Jain
 - h) Prem Bhushan Jain
 - i) Jimmo Dewara Jain
 - j) Jagan Bhushan Jain
 - k) Surendranath Jain

Last known address of Opp.6(i) to
(iii) k., Survey No.222, Hissa No.1 to 5,
S.No.228, H.No.3, S.No.229,
H.No.3 & 5, CTS No.1860,
Village Dahisar, Taluka Borivali

... Respondents

WITH
WRIT PETITION NO.2280 OF 2024

Paramanand Builders LLP.,

A Limited Liability Partnership constituted under the Limited Liability Partnership Act, 2018 having its address at CTS No.905, ECT, Agarwal Tower, Piramal Nagar, Village-Pahadi, Goregaon (West), Mumbai 400 062 previously known as Parmanand Buildings Pvt. Ltd. Last known address is Plot No.26/A, Ratan Nagar, S.V. Road, Dahisar (East), Mumbai 400 068.

... Petitioner

V/s.

1. **Competent Authority & District Deputy Registrar**, Cooperative Societies, Mumbai City (4), having it's office at 2nd Floor, Bhandari Coop. Bank, P.L. Kale Guruji Marg, Dadar West, Mumbai 400 028.

2. **Gauri Sadhana Cooperative Housing Society Limited**, a registered Coop. Society, having address at Plot No.A 24, CTS No.1860/28 Ratan Nagar, S.V. Road, Dahisar (East), Mumbai – 400 068.

3A. Nutan Shivlal Maru,

3B. Ajitbhai S. Maru,

3C. Kanta M. Parikh,

3D. Mathubhai D. Parikh,

3E. Jamnadas Agarwal

All 4 are members of Ratan Coop.

Housing Society Limited, and allottees of Plot No.24, Ratan Nagar, S.V. Road, Dahisar (East), Mumbai 400 068.

4. **Ratan Coop. Housing Society Ltd.**, alias Rattan Coop. Housing Society Ltd., Plot No.26/A, Ratan Nagar, S.V. Road, Dahisar (East), Mumbai 400 068.

... Respondents

WITH
WRIT PETITION NO.9563 OF 2023

Ratan Coop. Housing Society Ltd.,
alias Rattan Coop. Housing Society Ltd.,
Current address not known, last known
address is Plot No.A 22, Ratan Nagar,
S.V. Road, Borivali (East), Mumbai 400 068.

... Petitioner

V/s.

1. **Competent Authority & District Deputy Registrar**, Cooperative Societies, Mumbai City (4), having it's office at 2nd Floor, Bhandari Coop. Bank, P.L. Kale Guruji Marg, Dadar West, Mumbai 400 028.
 2. **Siddhraj Coop. Housing Society Ltd.**, A registered coop. Society having address at Plot No.A22, Ratan Nagar, Near Premji Nagar & Daulat Nagar, S.V. Road, Borivalli (East), Mumbai 400 066.
 3. **B.M. Vadgama & Others**, Are holders and members of Ratan Cooperative Housing Society Limited and allottees of plot No.A-22 of estate of society, current address not known, Last known address is Plot No.A-22, Ratan Nagar, S.V. Road, Borivali (East), Mumbai – 400 066
 4. **Pattan Jain Mandal**, A Trust to be allottees of residential units on plot No.A 22 of estate of society, Current address not known, Last known address is Plot No.A-22, Ratan Nagar, S.V. Road, Borivali (East), Mumbai – 400 066
 5. **Paramanand Builders LLP.**, A Limited Liability Partnership constituted under the Limited Liability Partnership Act, 2018 having its address at CTS No.905, ECT, Agarwal Tower, Piramal Nagar, Village-Pahadi,
- ... Respondents

Goregaon (West), Mumbai 400 062
M/s. Parmanand Builders Pvt. Ltd.
Current Address not known
last known address is Plot No.26/A,
Ratan Nagar, S.V. Road,
Dahisar (East), Mumbai 400 068

**WITH
WRIT PETITION NO.9564 OF 2023**

Ratan Coop. Housing Society Limited,
Ratan Nagar, Dahisar (East), Mumbai 400 068
through it's Secretary Amrishchandra Agarwal ... **Petitioner**

V/s.

- 1. Competent Authority & District Deputy Registrar,** Cooperative Societies, Mumbai City (4), having it's office at 2nd Floor, Bhandari Coop. Bank, PL. Kale Guruji Marg, Dadar West, Mumbai 400 028.
- 2. Shri Sai Sadguru Coop. Housing Society Ltd.,** A registered coop. Society having address at Plot No.A 26, Ratan Nagar, S.V. Road, Dahisar (East), Mumbai 400 068.
- 3. Shree Sadguru Enterprises,** Promoters/Developers, A Proprietorship Partnership firm having address as per Agreement – 17/27, Bhanubhai Chawl, Standard Mills Place, New Prabhadevi Road, Bombay 400 025
- 4. Jagdishnarayan Agarwal**
- 5. Jamnadas Agarwal,**

Both (4) & (5) are holders & members of Ratan Coop. Housing Society Ltd. and allottees of Plot No.26 of Estate of Society, current address not known Last known address is Plot No.A 26/A, Ratan Nagar, S.V. Road, Dahisar (East), Mumbai 400 068.

6. **Paramanand Builders LLP.**, alias M/s. Parmanand Builders Pvt. Ltd. Shreepal Industrial Estate, Oshiwara, S.V. Road, Jogeshwari (West), Mumbai 400 102 OR Agarwal Golden Compound, Fun Republic Road, Plot No.13/A, Behind Balaji Telefilms Off. New Link Road, Andheri (West), Mumbai 400 053 ... Respondents

**WITH
WRIT PETITION NO.9562 OF 2023**

Ratan Coop. Housing Society Ltd., alias Rattan Coop. Housing Society Ltd., Current address not known, last known address is Plot No.A 26/A, Ratan Nagar, S.V. Road, Borivali (East), Mumbai 400 068 through its Secretary Amrishchandra Agarwal ... Petitioner

V/s.

1. **Competent Authority & District Deputy Registrar**, Cooperative Societies, Mumbai City (4), having it's office at 2nd Floor, Bhandari Coop. Bank, P.L. Kale Guruji Marg, Dadar West, Mumbai 400 028.
2. **Patan Jain Mandal Coop. Housing Society Ltd.**, A registered Cooperative

Society having address at Plot
No.A20-21, 222, Rata Nagar, Near
Premji Nagar, Borivali (East),
Mumbai 400 066

3. B.C. Mehta,

Ajay Mehta

Amish Agarwal

Praful Agarwal,

Are holders and members of Ratan
Cooperative Housing Society Limited
and allottees of plot No.A-20-21
of estate of society, current address
not known, Last known address is
Plot No.A-22, Ratan Nagar, S.V. Road,
Borivali (East), Mumbai – 400 066

4. Pattan Jain Mandal,

A Trust to be allottees of residential
units on plot No.A 20 of estate of
society, Current address not known,
Last known address is Plot No.A-20-21,
Ratan Nagar, S.V. Road, Borivali (East),
Mumbai – 400 066

5. Paramanand Builders LLP.,

A Limited Liability Partnership
constituted under the Limited Liability
Partnership Act, 2018 having its address
at CTS No.905, ECT, Agarwal Tower,
Piramal Nagar, Village-Pahadi,
Goregaon (West), Mumbai 400 062
M/s. Parmanand Builders Pvt. Ltd.,
Current Address not known,
Last known address is Plot No.26/A,
Ratan Nagar, S.V. Road, Dahisar (East),
Mumbai 400 068.

... Respondents

**WITH
WRIT PETITION NO.7275 OF 2025**

Ratan Coop. Housing Society Ltd.,
alias Rattan Coop. Housing Society Ltd.,
Current address not known, last known
address is Plot No.A 22, Ratan Nagar,
S.V. Road, Dahisar (East), Mumbai 400 066 ... **Petitioner**

V/s.

- 1. Competent Authority & District Deputy Registrar, Cooperative Societies,**
Mumbai City (4), having it's office
at 2nd Floor, Bhandari Coop. Bank,
P.L. Kale Guruji Marg, Dadar West,
Mumbai 400 028.
- 2. Greenways Coo. Housing Society Ltd.,**
a registered Coop. Society having
address at Building NO.7, Ratan Nagar,
Dahisar (East), Mumbai 400 068
- 3. Omprakash Agarwal & Others,**
Are holders & members of Ratan Coop.
Housing Society Limited, and allottees
of Plot No.A 7 of estate of society
current address not known
last known address is Plot No.A 7,
Ratan Nagar, Dahisar (East),
Mumbai – 400 068
- 4. Paramanand Builders Private Ltd.,**
a Company incorporated under the
Indian Companies Act, 1961 having
address as per Agreement Shreepal
Insutrial Estate, Oshiwara, S.V. Road,
Jogeshwari, Mumbai

... **Respondents**

**WITH
WRIT PETITION NO.17823 OF 2024**

Premanand Builders Private Limited,
a Company incorporated under the Indian
Companies Act, 1961 having address as per
Agreement Shreepal Industrial Estate,
Oshiwara, S.V. Road, Jogeshwari, Mumbai
NOW KNOWN as Param Anand Builders LLP,
TPS CTS No.905, ECT, Agarwal Tower,
Village Pahadi, Goregaon (West), Off S.V.
Road, Piramal Nagar, Mumbai 400 062

... **Petitioner**

V/s.

- 1. Competent Authority & District Deputy Registrar,** Cooperative Societies, Mumbai City (4), having it's office at 2nd Floor, Bhandari Coop. Bank, P.L. Kale Guruji Marg, Dadar West, Mumbai 400 028.
- 2. Greenways Coo. Housing Society Ltd.,** a registered Coop. Society having address at Building NO.7, Ratan Nagar, Dahisar (East), Mumbai 400 068
- 3. Omprakash Agarwal & Others,** Are holders & members of Ratan Coop. Housing Society Limited, and allottees of Plot No.A 7 of estate of society current address not known last known address is Plot No.A 7, Ratan Nagar, Dahisar (East), Mumbai – 400 068
- 4. Ratan Coop. Housing Society Ltd.,** alias Rattan Coop. Housing Society Ltd., Current address not known,

last known address is Plot No.A 22,
Ratan Nagar, S.V. Road,
Dahisar (East), Mumbai 400 066

5. Joint Sub Registrar,

No.8, Borivali (East), Mumbai

... Respondents

Mr. Girish Godbole, Senior Advocate with Mr. Ankit Lohia, Ms. Aditi Bhatt and Ms. Jyoti Ghag i/by Dua Associates for the petitioner in WP/1673/2022 & 4375/2022.

Mr. Ankit Lohia, with Ms. Aditi Bhatt, Ms. Jyoti Ghag & Mr. Shailesh Prajapati i/by Dua Associates for the petitioner in WP/2280/2022, 2656/2022, 2657/2022, 4375/2022 & WP/17823/2024 and for respondent Nos.5 to 7 in WP/9562/2023, 9563/20223 & 9564/2023 & for respondent No.4 in WP/7275/2025.

Mr. Piyush Raheja with Mr. Rahul Vyas for the petitioner in WP/9563/2023, 9562/2023, & 9564/2023 & for respondent in WP/2657/2022, 2656/2022, 4357/2022, & 2280/2024.

Mr. Piyush Raheja with Mr. A. Loya and Rs. Rahul Vyas for the petitioner in WP/7275/2025 & for respondent No.4 in WP/17823/2024.

Mr. Vibhanshu Pandey i/by Mr. Rahul Karnik for respondent No.2 in WP/2280/2022.

Mr. Simil Purohit with Mr. Kartik Tiwari, Mr. Devang Shah and Mr. Aditya Kanchan i/by Lakshyavedhi Legal for respondent No.2 in WPL/10773/2023 & WP/2656/2022.

Mr. Vishal Tambat for respondent No.2 in WP/17823/2024.

Mr. Prabhakar M. Jadhav for respondent No.6(ii) in WP/4375/2023.

Ms. Aloka A. Nadkarni, AGP for respondent No.1-State in WP/1673/2022.

Mrs. M.S. Srivastava, AGP for respondent No.1-State in WP/2280/2024.

Mr. P.V. Nelson Rajan, AGP for respondent No.1-State in WP/2657/2022.

Ms. Savina R. Crasto, AGP for respondent No.1-State in WP/2656/2022.

Ms. S.D. Chipade, AGP for respondent No.1-State in WP/9563/2023.

Mr. Y.D. Patil, AGP for respondent No.1-State in WP/9562/2023.

Mr. S.L. Babar, AGP for respondent No.1-State in WP/9564/2023.

Dr. Dhruvi Kapadia, AGP for respondent No.1-State in WP/4375/2022.

Mrs. V.S. Nimbalkar, AGP for State in WP/17823/2024.

CORAM : AMIT BORKAR, J.

**RESERVED ON : JANUARY 20, 2026 &
FEBRUARY 17, 2026**

PRONOUNCED ON : FEBRUARY 24, 2026

JUDGMENT:

1. By the present writ petition, the petitioner assails the order dated 17 March 2021 passed by Respondent No. 1, whereby a unilateral deemed conveyance in respect of the subject plot has been granted.

2. The material facts giving rise to the present petition are as follows. One Surendranath Jain and others, along with Rajkumari Seth and others, were the original owners of land bearing Survey No.222, Hissa Nos. 1 to 5, Survey No. 228, Hissa No. 3, and Survey No. 229, Hissa Nos. 3 and 5, situated at Dahisar. By an

Agreement to Sell dated 15 April 1963, Surendranath Jain and others agreed to sell the larger property to the promoters of Respondent No. 5. Similarly, by a separate Agreement to Sell dated 20 June 1963, Rajkumar Seth and others agreed to transfer their interest in the said property to the same promoters. Respondent No. 5 came to be registered under the Maharashtra Cooperative Societies Act on 20 June 1963. Disputes subsequently arose between the parties. Since the existence of such disputes is not in controversy, their details are not set out at this stage. The petitioner reserves liberty to refer to the same and place relevant documents on record, if necessary. Eventually, Respondent No. 5 instituted Special Civil Suit No. 1649 of 1979 before this court against Surendranath Jain and others and Rajkumar Seth and others. The parties resolved the disputes by filing consent terms. Upon such settlement, Respondent No. 5 became entitled to and vested with all right, title, and interest in the larger property admeasuring 41,279.95 sq. mtrs. The property records were accordingly mutated to reflect the name of Respondent No. 5. Respondent No. 5 thereafter subdivided the larger property into approximately 31 smaller plots. By two separate letters of allotment, plot No. A/22 was allotted on monthly tenancy basis to Mr. Rajendra Patwa and Mr. Pandit Gauri Shankar, subject to the terms and conditions contained therein. Share certificates were issued in their names. In 1980, the said allottees transferred their rights in favour of Mr. Virendra Maru and Mr. Bharat M. Vadgama.

3. Respondent No. 5 admitted Mr. Virendra Maru and Mr. Bharat M. Vadgama as members and issued a fresh Letter of

Allotment in their favour. Under the said letter, the plot was allotted to them with an agreement to execute a lease either in their favour or in favour of their nominee, including a cooperative housing society of flat purchasers to be formed in respect of the building to be constructed on the plot and sold on ownership basis. The letter further stipulated that such cooperative housing society would make a joint application under the Maharashtra Cooperative Societies Act for transfer of shares and all right, title, and interest held by the said members. The share certificate was accordingly amended to reflect their names. The petitioner relies upon the relevant clauses of the Letter of Allotment issued to Mr. Virendra Maru and Mr. Bharat M. Vadgama. Clause 7 of the Letter of Allotment provided that the society would execute a lease in favour of the allottees or their nominee, including a cooperative housing society or other body corporate, subject to compliance with the statutory requirements under the Maharashtra Cooperative Societies Act, full payment of consideration, completion of construction, and obtaining of occupation certificate from the Municipal Corporation of Greater Bombay. The contractual arrangement thus contemplated creation of leasehold rights alone in favour of the allottees or their nominee society.

4. Pursuant thereto, Mr. Virendra Maru and Mr. Bharat M. Vadgama executed a Development Agreement dated 28 April 1980 in favour of the petitioner, assigning only development rights in respect of the plot. The agreement expressly recorded that the plot was leasehold in nature and that a lease deed would be executed by Respondent No. 5. The Development Agreement was expressly

made subject to the conditions of the Letter of Allotment, as recorded in Recital (iii) thereof. The petitioner relies upon the relevant clauses of the Development Agreement. Recital (iii) records that the vendors covenanted to construct buildings on the plot and to sell flats on ownership basis, subject to the terms of the Letter of Allotment and the lease deed to be executed by the society in their favour or in favour of their nominee. Clause 11 provides that the developers would, at their own cost and with the cooperation of the vendors or the society, obtain necessary permissions under the Urban Land Ceiling Act for lease of the land in favour of their nominee, though applications were to be made in the name of the vendors. Clause 12 stipulates that for leasing the plot to the proposed society or company, the vendors would make out a marketable title free from encumbrances. Upon completion of development, the lease was to be executed in favour of the developers or their nominee, including a cooperative society of flat purchasers, with the developers joining as confirming party. Clause 17 provides that the vendors or the society would execute an indenture of lease for a term of 99 years in favour of the developers or their nominee, with an option of renewal, subject to production of income tax clearance and requisite permissions. Clause 25 entitles the developers to assign their rights under the Development Agreement, subject to its terms and the conditions of the Letter of Allotment.

5. In exercise of the development rights, the petitioner constructed a building comprising ground plus four upper floors and entered into agreements for sale with various flat purchasers.

These agreements expressly recorded that the petitioner would procure a sub lease of the plot from the allottees or members. The grant of such sub lease was contingent upon execution of the primary lease by Respondent No. 5 in favour of the allottees. The petitioner further relies upon specific provisions of the agreements for sale executed with the flat purchasers. Clause 9 clarifies that purchasers would have rights only in respect of their respective flats, and that common areas would remain the property of the sellers until transfer to the proposed society or company. Clause 10 records that the plot was to be obtained on lease from Rattan Co operative Housing Society Ltd., and that references to conveyance in the agreement meant the lease to be executed in favour of the society. It further imposes liability upon purchasers to pay proportionate lease rent, taxes, stamp duty, registration charges, and other outgoings in respect of the lease. Clause 24 restrains purchasers from transferring or encumbering their flats until execution of sub lease or lease in favour of the cooperative society or limited company and until full payment of dues. Clause 34 provides that after completion of construction, registration of the society or company, sale of all flats, and receipt of all dues, the sellers would procure execution of an indenture of lease of the land and building in favour of the society or company.

6. The petitioner also relies upon a Package Deal Agreement dated 7 October 1981 executed between the petitioner and Respondent No. 4, which similarly proceeds on the basis that the plot was to be held on lease.

7. It is further stated that Respondent No. 5 continued to be

reflected as owner of the plot. The Intimation of Disapproval and Commencement Certificate were issued in its name. The title certificate annexed to agreements with members of Respondent No. 2 also records Respondent No. 5 as owner.

8. In February 2021 Respondent No. 2 filed an application under Section 11(3) of the Maharashtra Ownership Flats Act before Respondent No. 1 seeking unilateral deemed conveyance of the plot on the basis of the agreements executed with its members. An amendment application was thereafter filed noting conversion of M/s. Param Anand Builders Pvt. Ltd. into Param Anand Builders LLP, and the same was allowed. The petitioner filed an affidavit in reply dated 27 May 2021 opposing the application and placing relevant facts on record. By the impugned order, Respondent No. 1 allowed the application and granted unilateral deemed conveyance of the plot in favour of Respondent No. 2, issuing a certificate to that effect.

9. During the course of hearing, all parties were specifically called upon to place on record a note clarifying in which proceedings, if any, Respondent Ratan Society had not been served before the competent authority. Pursuant thereto, separate notes were filed by all concerned parties. A careful perusal of these notes shows that in each of the matters referred to, Ratan Society had entered appearance before the competent authority and had contested the proceedings.

10. Mr. Godbole, learned Senior Advocate and Mr. Lohia, learned Advocate submitted that the petition challenges the impugned

order on the ground of inherent lack of jurisdiction to direct execution of a conveyance of sale contrary to the governing contractual documents. They contended that the Allotment Letter dated 9 January 1980 conferred only leasehold rights upon Mr. Pravin Shah and Ms. Vanila Shah. The Development Agreement dated 22 June 1980 executed thereafter in favour of Respondent No. 5 also contemplated grant of lease alone. According to them, such arrangement did not require registration as a conveyance of sale. They further invited attention to Clauses 1, 9, and 12 of the agreements executed under the Maharashtra Ownership Flats Act, which expressly provide that any reference to “conveyance” shall be construed to mean “lease”. Clauses 28 and 37 likewise envisage execution of a lease. On this basis, it was submitted that the society can claim only a lease in terms of the Allotment Letter, Development Agreement, and the agreements executed with flat purchasers. Since the developer’s obligation was limited to transfer of leasehold rights, the direction to execute a conveyance of sale is, according to him, *ex facie* illegal.

11. They further submitted that the reliance placed by the Society on Clause 7 of the agreement under the Maharashtra Ownership Flats Act is misplaced and must be read harmoniously with Clause 12, which clarifies that the term “conveyance” shall be understood as “lease”. During the course of hearing, Respondent No. 2 Society contended that no valid lease existed in favour of the developer. This contention, according to learned Senior Counsel, is impermissible for two reasons. First, such a plea was not raised before Respondent No. 1 and cannot be permitted to be urged for

the first time in writ jurisdiction. Second, the Society claims through the developer and is therefore estopped from disputing the title or interest of its own predecessor in interest.

12. They submitted that the impugned order proceeds on an erroneous assumption that the Society is entitled to conveyance of sale on the premise that the land is held freehold by Respondent No. 2. This approach, according to him, ignores the express contractual stipulations between the Society and the promoters who developed the property. Respondent No. 3 was not a party to such agreements and cannot be compelled to execute a conveyance of sale when the contractual obligation was confined to grant of lease. It was contended that the promoter's statutory obligation under Section 11 of the Maharashtra Ownership Flats Act stands discharged upon execution of a lease in accordance with the agreements. The direction to grant conveyance of sale is therefore perverse and contrary to the binding terms of the agreements, which Respondent No. 1 was obliged to respect.

13. Learned Senior Counsel further submitted that Respondent No. 1 has placed reliance upon the consent terms filed in Suit No. 1648 of 1979, whereby Ratan Co operative Housing Society Limited stepped into the shoes of the original owners, namely Rajkumar Seth and others, who were defendants in Suit Nos. 1648 of 1979 and 1649 of 1979. According to him, the legal consequence is that the status of the original allottees from Ratan Co operative Housing Society Limited and those claiming through them continues as lessees or tenants, subject to a specific covenant that only leasehold rights would be granted. Such covenant binds

the Society. It was further submitted that in a similar matter arising from the same larger property, wherein analogous documents were executed, the competent authority granted only assignment of lease and not conveyance of sale. The said order was upheld by this Court in Writ Petition No. 6167 of 2022.

14. They submitted that Respondent No. 1 failed to appreciate the entire chain of documents, which uniformly contemplate execution of a lease and not a conveyance in favour of Respondent No. 2. The impugned order travels beyond the scope of the agreements executed between the parties and is therefore liable to be set aside. Respondent No. 1 could not have directed execution of a conveyance of sale when the petitioner possessed only the right and obligation to grant leasehold interest. The authority was bound to adjudicate strictly in accordance with the contractual and statutory framework placed before it.

15. It was lastly submitted that several writ petitions have been instituted challenging similar orders passed on identical grounds. A tabular statement has been placed on record indicating the writ petition numbers, dates of impugned orders, and the respective plot numbers involved. Although those matters were not independently argued, it was contended that the challenge therein rests on the same legal foundation as in the present petition.

16. Mr. Raheja, learned Advocate for the petitioner, submitted that the petitioner had allotted various plots to different allottees, who in turn entered into independent development agreements with separate developers. He invited attention to Clause 7 of the

respective Allotment Letters, which stipulates that the petitioner agreed to grant leasehold rights in favour of the allottee or its nominee, including a co operative housing society of flat purchasers to be formed on the plot. According to him, there is no provision in the Allotment Letters for execution of a conveyance of sale. He submitted that construction on the plots was undertaken by the allottees or their nominated developers without any contractual privity with the petitioner and without imposing any obligation upon the petitioner to execute a conveyance.

17. He further submitted that under Clauses (ii), (1), (2), (12), and (17) of the Development Agreement executed between the allottee, namely Respondent No. 3, and the developer, namely Respondent No. 5, in Writ Petition No. 9648 of 2023, it was expressly agreed that a lease deed would be executed in favour of the co operative society to be formed by the developer. Similar stipulations, according to him, are contained in all the development agreements pertaining to the larger property. He also referred to Clauses 3, 10, and 14 of the agreements executed under the Maharashtra Ownership Flats Act, which, according to him, restrict the developer's authority to execution of a lease in favour of the proposed co operative society. Clause 5(a) of the said agreement further provides that in the event of any inconsistency between the agreement for sale and the Development Agreement, the terms of the Allotment Letter shall prevail. The agreements under the Maharashtra Ownership Flats Act expressly refer to the Allotment Letters as well as the Development Agreements. On this basis, it was contended that the Society is entitled only to a lease

in terms of the governing documents. Since the developer's obligation was confined to transfer of leasehold rights, the grant of conveyance of sale is, according to him, unsustainable in law.

18. It was submitted that the impugned orders passed by Respondent No. 1 are contrary to the express terms agreed between the parties in the Allotment Letters, Development Agreements, and the agreements executed under the Maharashtra Ownership Flats Act. According to learned counsel, Respondent No. 1 has disregarded the contractual framework binding the parties and has issued directions inconsistent therewith.

19. He further submitted that Respondent No. 1 has erroneously proceeded on the footing that the Society is entitled to conveyance of sale on the premise that the petitioner holds the land as freehold owner. According to him, the nature of the petitioner's title does not alter the contractual obligations undertaken in the relevant agreements. The petitioner is not a party to the agreements executed under the Maharashtra Ownership Flats Act and cannot be compelled to convey its title in favour of the Society on that basis. Learned counsel also placed reliance upon a similar matter arising from the same larger property, wherein Mahavir Co operative Housing Society had sought conveyance. In that case, where similar documents were executed, the competent authority directed only assignment of lease and not execution of conveyance of sale. The said order was upheld by this Court in Writ Petition No. 6167 of 2022. It was lastly submitted that the factual matrix in Writ Petition No. 9562 of 2023 is identical to that in Writ Petition Nos. 9563 of 2023 and 9564 of 2023. On that basis, it was urged

that similar orders be passed in the connected matters.

20. Per contra, Mr. Purohit, learned Senior Advocate, submitted that the present writ petition filed by the developer, namely Geopreneur Corp Pvt. Ltd., and similar petitions filed by Param Anand Builders, are not maintainable in law. He contended that the developer, not being the owner of the plot in question, lacks locus standi to challenge the impugned order. It is undisputed that no sale deed has been executed in favour of the petitioner by the original owner, Respondent No. 3. In the absence of title to the land, the petitioner cannot question the grant of conveyance in favour of the Society. On this ground alone, the petition, according to him, deserves dismissal.

21. He further submitted that the owner, namely Ratan Co operative Housing Society Limited, has independently instituted Writ Petition No. 7202 of 2023 challenging the same impugned order. Since the present respondent is also arrayed as Respondent No. 2 in the said petition, he proposes to address those contentions in the present submissions. It was submitted that Respondent No. 3 assails the impugned order primarily on two grounds. First, that no notice was served upon it prior to filing of the application. Second, that under the agreements executed with the members of Respondent No. 2 under the Maharashtra Ownership Flats Act, it had agreed to grant only leasehold rights.

22. Learned Senior Counsel submitted that the aforesaid contentions are misconceived and untenable for the reasons set out hereafter. He invited attention to paragraph 4 of the impugned

order, which records that a public notice dated 28 June 2019 was issued to afford adequate opportunity to all concerned parties. He contended that the plea of want of notice is mala fide. The petition in Writ Petition No. 7202 of 2023 is verified by Mr. Amrishchandra Agarwal, who is related to Mr. Rohan Agarwal, the director of Geopreneur Corp Pvt. Ltd., which constructed the building of Respondent No. 2 Society and was arrayed as Opponent No. 1 before the Competent Authority. The said developer not only appeared but actively contested the proceedings. In such circumstances, it is implausible that the alleged authorised representative of Respondent No. 3 was unaware of the proceedings.

23. He submitted that it is undisputed that Respondent No. 3, namely Ratan Co operative Housing Society Limited, is the owner of the plot. The Municipal Corporation of Greater Mumbai, by its letter dated 26 February 1980, while granting permission to Respondent No. 3 to undertake construction on the larger property including the subject plot, imposed certain conditions, as the land was subject to Public Housing reservation. Condition (f) specifically prohibited leasing or resale of the plots for a period of ten years. It is submitted that for this reason Respondent No. 3 merely allotted the plot to Mr. Pravin Shah and Ms. Vanila Shah. Owing to the subsisting Public Housing reservation, no executed lease exists between Respondent No. 3 and any other party even as on date. Without prejudice to the above, it was submitted that such allotment could at best be construed as creating a principal agent relationship.

24. He further submitted that Respondent No. 3 cannot rely upon the agreements executed under the Maharashtra Ownership Flats Act, as it was not a party thereto. It is pertinent that Respondent No. 3 obtained the Intimation of Disapproval and Commencement Certificate for construction of the structure occupied by Respondent No. 2 Society. In view thereof, Respondent No. 3 falls within the definition of “promoter” under Section 2(c) of the Maharashtra Ownership Flats Act, 1963. Reliance is placed on the judgment of this Court in *Farhat Co operative Housing Society Ltd. v. Malkani Enterprises, 2014 SCC OnLine Bom 1265*, wherein it has been held that an owner who obtains IOD and Commencement Certificate and causes construction through a developer would qualify as a promoter and is obligated to ensure that the society receives what it is entitled to under the agreement executed with flat purchasers. It was further held therein that the deemed conveyance must be construed in the context of the rights held by the developer and cannot be faulted on the ground of vagueness.

25. He also relied upon the decision of this Court in *Mr. Haresh Bhatia and Others v. District Deputy Registrar, Co operative Societies, Mumbai City (4)*, in Writ Petition No. 18739 of 2024, wherein it has been observed that Section 11(1) of the Maharashtra Ownership Flats Act obligates the promoter to complete his title and convey to the society his right, title, and interest in the land and building, meaning thereby the title which the promoter holds must be transferred to the flat purchasers’ society. In the present case, Respondent No. 3, being the owner

and promoter with clear title, cannot contend that only leasehold rights are transferable.

26. It was further submitted that the Maharashtra Ownership Flats Act mandates the promoter to convey title in favour of the organisation or society of flat purchasers. Even assuming, without admitting, that Respondent No. 3 is entitled to rely upon the agreements executed with flat purchasers, Clause 45 of the said agreement expressly provides that the agreement shall always be subject to the provisions of the Maharashtra Ownership Flats Act, 1963 and the Rules framed thereunder. The said clause stipulates that the agreement shall remain subject to the statutory provisions in force, including any amendment or re-enactment thereof. He submitted that Section 11 of the Maharashtra Ownership Flats Act was amended in 2008, making it obligatory for the promoter to convey the plot of land in favour of the society or association of flat purchasers. In view of the statutory mandate, Respondent No. 2 is entitled to conveyance of the subject plot from Respondent No. 3 and other concerned parties.

27. In the above circumstances, it was submitted that no case is made out by the petitioner warranting interference with the impugned order. The writ petitions, therefore, deserve to be dismissed with costs.

REASONS AND ANALYSIS:

I. Statutory Framework Must Govern the Dispute

28. To properly deal with the objections raised by the promoters, it is necessary to step back and examine the full statutory scheme

under the Maharashtra Ownership Flats Act and the Rules framed under it. The dispute cannot be resolved by picking isolated clauses from private agreements and treating them as final. Private contracts operate within the limits fixed by statute. When a legislation creates rights in favour of flat purchasers and imposes duties on promoters, those duties cannot be diluted by drafting choices made between private parties. Therefore, the correct approach is to first understand the structure of the Act, the purpose behind it, and the relationship it creates between promoter and flat purchaser. Only after understanding that scheme can individual clauses in agreements be properly interpreted.

29. The Act was enacted to regulate the promotion, construction, sale, management, and transfer of flats sold on ownership basis in Maharashtra. The legislative history shows that the law was brought in to address widespread abuse in the housing sector. Before the enactment of MOFA, flat purchasers often paid full consideration yet remained without clear title to the land. Societies were not formed in time. Conveyance of the property was delayed indefinitely. Promoters retained control over land even after selling all flats, leaving purchasers dependent and legally insecure. The Act was designed to correct this imbalance. It shifts the focus from the promoter's convenience to the purchaser's protection. The entire scheme of the statute must therefore be read as consumer protective legislation meant to ensure that purchasers ultimately receive collective ownership through their society.

30. Under Section 2(c) MOFA, the term "Promoter" has been defined as under:

“(c) “promoter” means a person and includes a partnership firm or a body or association of persons, whether registered or not who constructs or causes to be constructed a block or building of flats, or apartments for the purpose of selling some or all of them to other persons, or to a company, cooperative society or other association of persons and includes his assignees; and where the person who builds and the person who sells are different persons, the term includes both;

31. Section 4 mandates entering into an agreement with flat purchaser and registration thereof by a promoter before accepting advance payment. Section 4 MOFA provides thus:

“4. Promoter before accepting advance payment or deposit to enter into agreement and agreement to be registered.—

(1) Notwithstanding anything contained in any other law, a promoter who intends to construct or constructs a block or building of flats all or some of which are to be taken or are taken on ownership basis, shall, before, he accepts any sum of money as advance payment or deposit, which shall not be more than 20 per cent, of the sale price enter into a written agreement for sale with each of such persons who are to take or have taken such flats and the agreement shall be registered under the Registration Act, 1908 (hereinafter in this section referred to as “the Registration Act, 1908”) and such agreement shall be in the prescribed form.

(1-A) The agreement to be prescribed under sub-section (1) shall contain inter alia the particulars as specified in clause (a); and to such agreement there shall be attached the copies of the documents specified in clause (b)—

(a) particulars— (i) if the building is to be constructed, the liability of the promoter to construct it according to the plans and specifications approved by the local authority where

such approval is required under any law for the time being in force;

(ii) the date by which the possession of the flat is to be handed over to the purchaser;

(iii) the extent of the carpet area of the flat including the area of the balconies which should be shown separately;

(iv) the price of the flat including the proportionate price of the common areas and facilities which should be shown separately, to be paid by the purchaser of flat; and the intervals at which instalments thereof may be paid;

(v) the precise nature of the organisation to be constituted of the persons who have taken or are to take the flats; (vi) the nature, extent and description of limited common areas and facilities; (vii) the nature, extent and description of limited common areas and facilities, if any; and

(viii) percentage of undivided interest in the common areas and facilities appertaining to the flat agreed to be sold.

(ix) statement of the use for which the flat is intended and restriction on its use, if any;

(x) percentage of undivided interests in the limited common areas and facilities, if any, appertaining to the flat agreed to be sold;”

32. Section 10 MOFA imposes obligation on the promoter to take steps for formation of cooperative society or company and provides thus:

“10. Promoter to take steps for formation of cooperative society or Company.—(1) As soon as a minimum number of persons required to form a cooperative 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

cooperative 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 cooperative 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 fails within the prescribed period to submit an application to the Registrar for registration of society in the manner provided in the Maharashtra cooperative Societies Act, 1960 (Mah. Act 24 of 1961), 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.”

33. Section 11 MOFA, which is the crucial provision for determination of issue in the present case, imposes an obligation on the promoter to convey his title in the land and building in favour of the Cooperative Society, Company or Association of apartment owners. It reads as under:

“11. Promoter to convey title, etc. and to execute documents, according to the agreement.—(1) A promoter shall take all necessary steps to complete his title and convey to the organisation of persons, who take flats, which is

registered either as a cooperative society or as a company as aforesaid or to an association of flat takers [or apartment owners], his right, title and interest in the land and building and execute all relevant documents therefor in accordance with the agreement executed under Section 4 and if no period for the execution of the conveyance is agreed upon, he shall execute the conveyance within the prescribed period and also deliver all documents of title relating to the property which may be in his possession or power.

(2) It shall be the duty of the promoter to file with the competent authority, within the prescribed period, a copy of the conveyance executed by him under sub-section (1).

(3) If the promoter fails to execute the conveyance in favour of the cooperative society formed under Section 10 or, as the case may be, the Company or the association of apartment owners, as provided by sub-section (1), within the prescribed period, the members of such cooperative society or, as the case may be, the Company or the association of apartment owners may, make an application, in writing, to the concerned competent authority accompanied by the true copies of the registered agreements for sale, executed with the promoter by each individual member of the Society or the Company or the association, who have purchased the flats and all other relevant documents (including the occupation certificate, if any), for issuing a certificate that such society, or as the case may be, company or association, is entitled to have an unilateral deemed conveyance, executed in their favour and to have it registered.

(4) The competent authority, on receiving such application, within reasonable time and in any case not later than six months, after making such enquiry as deemed necessary and after verifying the authenticity of the documents submitted and after giving the promoter a reasonable opportunity of being heard, on being satisfied that it is a fit case for issuing

such certificate, shall issue a certificate to the Sub-Registrar or any other appropriate Registration Officer under the Registration Act, 1908, certifying that it is a fit case for enforcing unilateral execution, of conveyance deed conveying the right, title and interest of the promoter in the land and building in favour of the applicant, as deemed conveyance.

(5) On submission by such society or as the case may be, the Company or the association of apartment owners, to the Sub-Registrar or the concerned appropriate Registration Officer appointed under the Registration Act, 1908, the certificate issued by the competent authority along with the unilateral instrument of conveyance, the Sub-Registrar or the concerned appropriate registration Officer shall, notwithstanding anything contained in the Registration Act, 1908, issue summons to the promoter to show cause why, such unilateral instrument should not be registered as “deemed conveyance” and after giving the promoter and the applicants a reasonable opportunity of being heard, may on being satisfied that it was fit case for unilateral conveyance, register that instrument as, ‘deemed conveyance’.

34. Rule 5 deals with particulars to be contained in the agreement to be executed under Section 4 MOFA and reads as under:

“5. Particulars to be contained in agreement.—The promoter shall, before accepting any advance payment or deposit, enter into an agreement with the flat purchaser in Form V containing the particulars specified in clause (a) of sub-section (1-A) of Section 4 and shall attach thereto the copies of the documents specified in clause (b) of the said sub-section (1-A).”

35. When these provisions are read together, a clear scheme emerges. The promoter constructs and sells flats through

registered agreements. Purchasers are informed of their rights. A society is formed. The promoter then conveys his entire interest in the land and building to that society. The Rules ensure that the agreement itself reflects this structure. This statutory plan governs the dispute before the Court. Private arrangements, however carefully drafted, must operate within this scheme and cannot override it.

III. Legislative Intent Behind Broad Promoter Definition:

36. Section 2(c) of the Act gives a wide meaning to the expression “promoter”. The Legislature did not confine the term to a single category of person. It provides that a promoter means a person, and it expressly includes a partnership firm, a body or an association of persons, 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 to others. It further includes assignees. The definition goes one step further. It clarifies that where the person who builds and the person who sells are different, both are covered within the expression “promoter”.

37. The Legislature was aware of common practices in the real estate field. Often, the landowner enters into an arrangement with a developer. One party secures permissions and title. Another party undertakes construction. Yet another markets and sells flats. If the definition were narrow, each participant could disclaim responsibility by pointing to the other. The landowner might say that he only gave development rights. The developer might say he is not the owner. The selling agent might say he only marketed the

flats. In such a situation, flat purchasers would be left without a clear person against whom statutory duties could be enforced. By including any person who constructs or causes construction, and by expressly covering situations where the builder and seller are different, the Act prevents such avoidance. If the owner obtains permissions and causes construction through a developer, he cannot escape by saying that he did not personally lay bricks. If the developer builds and sells though the land stands in the name of another, he too falls within the definition. Even assignees are included so that rights and obligations travel with the project.

38. The Act requires execution of a registered agreement. It mandates disclosure. It obliges formation of a society. It compels conveyance of title. If the term “promoter” were read narrowly, these duties could easily be defeated by making transactions in layers. The Legislature closed that door. Therefore, when examining any dispute under the Act, the Court must look at the substance of the arrangement and not merely the label adopted by the parties. If a person has undertaken development, procured sanctions, caused construction and sold flats, he answers the description of promoter. If the owner has actively participated and enabled the project, he too falls within that net. The definition ensures that statutory obligations attach to all those who have a effective role in bringing the building into existence and placing flats in the hands of purchasers.

III. Wide Definition of Promoter under Section 2(c):

39. The starting point for understanding the scheme of the Act is

the definition of the word “promoter” under Section 2(c). The Legislature has consciously used broad language. It does not restrict the expression to only the person who physically constructs the building or only to the person whose name appears as owner in the property records. Instead, the definition covers any person who constructs or causes to be constructed a building of flats for the purpose of selling them. This choice of words is deliberate and has important consequences while deciding disputes under the Act. The phrase “causes to be constructed” is significant. It shows that the law is concerned with the real role played in bringing the project into existence. In many projects, the owner of land does not personally undertake construction. Construction may be carried out through a developer, a partnership firm, or another entity created only for development purposes. If the definition was narrow, the landowner could simply say that he did not construct and therefore he is not responsible. The Act prevents such avoidance. If a person enables, authorises or sets in motion the process of construction with the intention of selling flats, he comes within the definition of promoter.

40. The definition also includes partnership firms, bodies or associations of persons, whether registered or not. This again shows that the Legislature intended to prevent technical objections. Promoters often change business structures or operate through informal arrangements. Flat purchasers cannot be expected to trace internal arrangements or legal technicalities. The law therefore attaches responsibility to the function performed rather than the form adopted.

41. Another important part of the definition is that where the person who builds and the person who sells are different, both are treated as promoters. This provision addresses a common practice in real estate transactions. One party obtains approvals and controls land. Another carries out construction. A third may market and execute agreements with purchasers. If only one of them were treated as promoter, the others could escape statutory duties. The Act avoids this situation by treating all such persons as promoters for the purposes of obligations under the statute. The inclusion of assignees further strengthens this approach. Development rights are often transferred during the life of a project. Without this clause, a promoter could assign rights midway and claim that obligations no longer bind him. Section 2(c) ensures that rights and obligations travel with the project. Anyone stepping into the shoes of the original promoter also steps into his statutory responsibilities.

42. The broad definition serves a clear purpose. The Act is a welfare legislation meant for flat purchasers. Purchasers deal with whoever appears to control the project. They pay money believing that the law will ensure transfer of title and formation of society. If responsibility could be avoided by splitting roles between owner, developer and seller, the entire protection intended by the Act would fail. Therefore, while applying Section 2(c), the Court must look at the substance of the arrangement. The real test is who had an effective role in bringing the building into existence and placing flats in the market. If the landowner secures permissions, permits construction and allows flats to be sold, he cannot later deny the

status of promoter. Similarly, if a developer constructs and sells flats though title stands elsewhere, he also falls within the definition. The law does not permit either to avoid statutory obligations by pointing to internal agreements between themselves.

43. Thus, Section 2(c) creates a wide definition. It ensures that every person who plays a role in development and sale remains accountable under the Act. The definition must therefore be interpreted in a manner that advances the object of the legislation and protects flat purchasers from being left without an effective remedy.

IV. Statutory Duties under Sections 3, 4, 7 and 10:

44. Section 3 sets out the general liabilities of the promoter. Section 4 then places a strict condition before any money is accepted. It provides that a promoter who intends to construct flats to be taken on ownership basis shall, before accepting more than twenty percent of the sale price as advance or deposit, enter into a written agreement for sale with each purchaser. That agreement must be registered under the Registration Act and must be in the prescribed form. Sub-section (1A) of Section 4 specifies what the agreement must contain. It must disclose the liability of the promoter to construct the building as per sanctioned plans. It must state the date of possession. It must specify the carpet area. It must break up the price of the flat and the price attributable to common areas. It must state the nature of the organization to be formed, the description of common areas, and the percentage of

undivided interest in those areas. In other words, the law insists on full disclosure at the stage of sale.

45. Section 7 prohibits the promoter from altering sanctioned plans without consent. Section 10 then moves the process forward by imposing a duty on the promoter to take steps for formation of a cooperative society or company as soon as the minimum number of purchasers is reached. The formation of the society is not left to the choice of the promoter. It is a statutory step. The promoter must apply for registration within the prescribed time. If he fails, the law empowers the competent authority to intervene and direct registration upon application by flat purchasers. This provision shows that the Act does not allow the promoter to indefinitely retain control by delaying formation of the society. The law intends that the purchasers must come together as a collective body capable of holding title and managing the property.

V. Section 11. Core Obligation to Convey Title:

46. The heart of the Act lies in Section 11. That is the stage where the project moves from construction and sale to actual transfer of ownership. Until that point, the flat purchaser has only an agreement. Section 11 ensures that the agreement matures into real title.

47. Sub-section (1) says that the promoter shall take all necessary steps to complete his title. This is important. The promoter cannot say that his own title is imperfect and therefore he is unable to convey. The law places the burden on him to convey to the organization of flat purchasers his right, title and

interest in the land and the building. The organization may be a cooperative society, a company, or an association of apartment owners. The form of organization may differ, but the duty remains the same. The promoter must transfer what he owns.

48. The phrase “his right, title and interest” used in Section 11 signify the totality of ownership. They include every legal and beneficial interest that a person holds in respect of immovable property. When the Legislature employs such composite words, it intends to leave no residue behind. The expression does not refer merely to the constructed portion of the building. It is not confined to the concrete structure raised above the ground. Nor is it restricted to common areas like staircases, lifts or terraces. The section expressly speaks of the land and the building. The land is the foundation. The building stands on it. Both form one integrated unit for purposes of ownership and enjoyment by flat purchasers.

49. A promoter cannot transfer less than what he himself holds. At the same time, he cannot retain any part of his own interest once the stage for conveyance arrives. Therefore, the nature of the society’s right depends directly on the nature of the promoter’s title. If the promoter is a freehold owner of the land, then he has complete ownership. That ownership includes the land itself, the building standing on it, and all rights arising from it. In such a case, when Section 11 require him to convey his right, title and interest, the entire ownership must pass to the society. He cannot say that he will keep ownership but give only a lease. The statute does not permit such splitting of rights. Ownership once held by

the promoter must move fully to the society formed by flat purchasers.

50. On the other hand, there are situations where the promoter is not the owner but only a lessee under a superior owner. In that case, the promoter cannot transfer ownership because he never had it. What the law requires is that he must assign the whole of his leasehold interest to the society. He cannot retain a portion of the lease for himself or continue as a superior lessee after flats are sold. Whatever leasehold rights he possesses must pass in their entirety.

51. The logic behind this is that the society steps into the shoes of the promoter. It takes over exactly what the promoter had. Nothing more and nothing less. If the promoter had ownership, ownership goes to the society. If he had leasehold rights, the full leasehold goes to the society. This principle also prevents misuse. Promoters in the past often tried to retain some superior interest in land even after selling all flats. They would continue to control redevelopment or claim future benefits. The law avoids this situation by insisting that the entire interest held by the promoter must be transferred. Therefore, the inquiry is always factual. What was the promoter's real title at the time of conveyance. Once that is identified, the transfer must match it completely. The promoter cannot reduce his own estate before transferring it. Nor can he hold back any part of it after society is formed.

52. Flat purchasers purchase flats with a proportionate undivided interest in the land and common areas. Their right to

use, manage and redevelop the property depends on control over the underlying land. If the promoter retains ownership of the land, the society's autonomy becomes illusory. Decisions about repairs, additional development or redevelopment would remain subject to the promoter's superior title. Therefore, the words "his right, title and interest" must receive full meaning. They oblige the promoter to divest himself of the entire estate that he holds in the land and building. The statute leaves no room for partial retention. It requires a clean transfer so that the society stands in the shoes of the promoter as owner of the property, to the extent of the promoter's own interest. In this view, any attempt to split ownership by conveying only the flats while retaining the land is contrary to the plain language of the Act. The legislative command is clear. Whatever interest the promoter holds in relation to the land and building must vest in the society formed by the flat purchasers.

53. The section further requires the promoter to execute all relevant documents in accordance with the agreement executed under Section 4. This ensures consistency between the statutory agreement and the final conveyance. If the agreement fixes a definite time for conveyance, that time governs. If it does not, the statute and rules step in and prescribes the period of four months within which conveyance must be executed. There is also a requirement to deliver all title documents in the promoter's possession or power. Without original title documents, the society cannot effectively manage or deal with the property. The Legislature was conscious of the practical difficulties faced by

societies where promoters retained documents even after possession was given.

54. When these parts are read together, the scheme is clear. The promoter constructs and sells. The purchasers form a society. The promoter completes his title. He then transfers his entire interest in the land and building to the society within the stipulated period and hands over the title documents. That is the statutory sequence. Section 11 therefore marks the point where control and ownership of the property must pass from the promoter to the collective body of flat purchasers. It ensures that the promoter does not remain indefinitely in a dominant position over the property. It converts contractual rights into real ownership. This provision must be given full effect if the purpose of the Act is to be achieved.

VI. Rule 5 and Clause 13 of Form V:

55. Form V is the statutory model agreement which every promoter must use while entering into an agreement for sale under Section 4. Once the Rules prescribe a specific form, parties cannot dilute or rewrite its essential obligations. The object behind prescribing a uniform form is to ensure that flat purchasers across the State receive minimum statutory protection. The promoter does not have freedom to draft clauses in a manner that curtails rights conferred by the Act. Clause 13 of Form V directly addresses the issue of conveyance. It provides that, unless definite time is otherwise agreed, the promoter shall within four months of registration of the society or limited company cause to be transferred to that body all the right, title and interest of the

vendor, lessor, original owner or promoter in the land together with the building. The transfer is to be effected by executing the necessary conveyance or assignment of lease. The clause also clarifies that such conveyance or assignment must be in keeping with the terms and provisions of the agreement.

56. This clause carries weight for more than one reason. First, it repeats the statutory expression “all the right, title and interest”. The word “all” leaves no scope for partial transfer. It strengthens what Section 11 already mandates. The promoter must divest himself completely of whatever interest he holds. The clause does not contemplate retention of reversionary rights, residual title, or superior interest. Second, the clause recognizes that promoters may not always hold identical types of title. In some cases, the promoter may be absolute owner of the land. In other cases, he may hold leasehold rights from a superior lessor. Clause 13 takes care of both situations. If the promoter is owner, he must execute a conveyance of ownership. If he is a lessee, he must execute an assignment of his leasehold rights. The nature of the instrument depends on the nature of his title. But the extent of transfer does not vary. Whatever interest he has must pass in its entirety. The clause therefore connects the statute and the contract. It ensures that the agreement for sale incorporates the statutory duty of transfer. It prevents promoters from later contending that only a limited estate was promised. Even if the parties “otherwise agree”, such agreement cannot override the Act. The Rules and the prescribed form operate within the framework of the statute.

57. When one reads Section 11 of the Act, Rule 5 of the Rules,

and Clause 13 of Form V together, the overall structure of the law becomes clear. These provisions are form part of one continuous scheme. Section 11 creates the obligation. Rule 5 ensures that the agreement reflects that obligation in a prescribed form. Clause 13 of Form V incorporates the duty of transfer directly into the contract between promoter and purchaser. The combined reading leaves little scope for doubt. The promoter is not permitted to split his interest and retain the more valuable portion while transferring a reduced or inferior right to the society. The statute does not allow him to remain the ultimate owner of the land while the society becomes only a user or long term occupier. Such an arrangement would defeat the purpose of collective ownership which the Act seeks to secure for flat purchasers. It must be remembered that flat purchasers do not enter into transactions with the intention of becoming tenants under the very person who developed and sold the property to them. They purchase flats on ownership basis. The Act was enacted to protect this expectation. If the promoter were allowed to retain ownership of the land and grant only limited rights to the society, the balance of power would remain permanently tilted in his favour. The Legislature clearly did not intend to create a perpetual landlord-tenant relationship between promoter and society, except in cases where the promoter himself holds only leasehold rights from a superior owner. In such a case, the promoter cannot transfer more than what he holds. Even then, the obligation remains that he must assign his entire leasehold interest. He cannot divide the leasehold and retain a portion. The society must step into his shoes to the full extent of

his interest. Once the society is formed, the promoter must exit from ownership and transfer his full right, title and interest. That is the legislative intent reflected consistently across the Act and the Rules. Any interpretation which permits partial retention would dilute the protection granted to flat purchasers and cannot be accepted.

VII. Applicability of judgment in the case of Farhat Co operative Housing Society:

58. The decision in *Farhat Co operative Housing Society Ltd.* directly assists in resolving the controversy in the present case. *Farhat* lays down a basic principle that the society is entitled to the right, title and interest of the promoter or developer. It cannot claim more than what the promoter holds. At the same time, it must receive the entire interest that the promoter is entitled to under law and under the project documents. In *Farhat*, the developer held an Agreement to Lease from the owners. Therefore, the society was held entitled to assignment of that leasehold interest. The Court rejected the contention that the society would be confined to a mere monthly tenancy. Applying that reasoning here, the inquiry must focus on what interest the promoter holds in the present matter. If the promoter holds freehold ownership, the society must receive that ownership. If the promoter holds leasehold rights, the society must receive the full leasehold interest. The promoter cannot whittle down his own estate and pass a lesser interest. *Farhat* considers the scheme explained in *Ramniklal Tulsidas Kotak v. Varsha Builders 1993 (1) Mh. L.J. 323*. The promoter may be an absolute owner, a lessee, an agreement

holder with enforceable rights, or an agent of the owner. In each situation, the key requirement is that the promoter must have sufficient entitlement to construct and sell flats on ownership basis. Where he is not absolute owner, the owner must be made a confirming party so that the flat purchasers are not left remediless. The object of the Act is protection of purchasers and prevention of malpractice.

59. In the present case, the record shows that the owner obtained the IOD and Commencement Certificate and construction proceeded accordingly. The Court there held that the owner who caused the construction falls within Section 2(c). The owner could not avoid the status of promoter merely because a family firm or developer executed documents on its behalf. The Court looked at substance over form. The same approach must govern here. If the owner enabled and caused the construction and sale of flats, he stands in the position of promoter. Once that is established, Section 11(1) becomes operative. The promoter must convey his right, title and interest in the land and building to the society.

60. *Farhat* makes an important clarification. The deemed conveyance must be understood in the context of the rights the promoter had. If the promoter's right was to obtain a lease from the owner, then the society would be entitled to that lease. If the promoter had ownership, the society would be entitled to ownership. The Court rejected the argument that the order was vague. It held that the operative part must be read in light of the promoter's actual entitlement. In the present case, the petitioners argue that only leasehold rights were contemplated under the

allotment letters and development agreements. That argument must be tested against the real nature of title. If the promoter or owner holds freehold title, the society cannot be restricted to a lesser estate merely because internal documents used the word lease. If, however, the promoter genuinely holds only leasehold rights from a superior owner, then the society would receive that leasehold interest in its entirety. Farhat also highlights another dimension. The Court took note of common interest between owner and developer to frustrate conveyance. It emphasised that the Act must be interpreted to prevent such attempts. In the present matter, the resistance to conveyance, despite formation of society and completion of construction, must be examined in the same spirit. The Court cannot permit technical pleas to defeat statutory rights.

VIII. Applicability of judgment in the case of Mr. Haresh Bhatia and Others:

61. In *Mr. Haresh Bhatia and Others*, this Court examined the entire scheme of MOFA in simple and practical terms. The reasoning is important because it explains why Section 11 must be given full effect. The Court explained that Section 11 cannot be read narrowly. The expression “his right, title and interest in the land and building” means the entire interest that the promoter holds. If he is owner, he must convey ownership. If he is lessee, he must assign the lease. He cannot retain ownership of land and give only leasehold rights if he himself is owner. The Court also dealt with the argument that conveyance must strictly follow the agreement under Section 4. It was argued that if the agreement

says only lease will be granted, the authority cannot grant ownership. This argument was rejected. The Court held that the words “in accordance with the agreement executed under Section 4” cannot be read in isolation. They must be harmonised with the mandate to convey “his right, title and interest in the land and building.” Otherwise, promoters would simply draft agreements saying land will never be conveyed, and defeat Section 11 entirely.

62. The consistent view has been that an owner who secures permissions and sets the project in motion cannot later distance himself from the obligations imposed on a promoter. The law will not permit him to say that the developer alone must bear the statutory burden while he continues to enjoy the benefit of ownership. Once a person falls within the definition of promoter, the duties under Section 11(1) follow as a matter of course. That section does not differentiate between categories of promoters. It mandates that the promoter must complete his title and convey his right, title and interest in the land and building to the society. The obligation is attached to the role, not to the label. It is therefore not open to the parties to rely upon internal arrangements between owner, allottee and developer to defeat the statutory mandate. They may agree among themselves about sharing of profits, development rights or management. But such private arrangements cannot dilute the rights of flat purchasers or the statutory duty to convey. The Act was enacted precisely to prevent such shifting of responsibility. In short, the Court must look beyond nomenclature and examine the real nature of the transaction. If the owner has enabled and caused construction and

sale of flats, he stands in the position of promoter. He cannot avoid the obligation to convey by pointing to agreements executed behind the back of the purchasers. The statutory duty under Section 11(1) attaches to him notwithstanding the internal structure of the development arrangement.

63. Therefore, the ratio of *Farhat Co operative Housing Society Ltd. and Mr. Haresh Bhatia and Others* support the following conclusions in the present case: The society is entitled to the entire right, title and interest held by the promoter. The promoter includes the person who caused construction, even if development was routed through another entity. Deemed conveyance must reflect the real nature of the promoter's entitlement. Internal arrangements between owner and developer cannot defeat the statutory mandate under Section 11. If, on facts, the promoter here holds ownership in the land, then the society must receive that ownership. If the promoter holds leasehold rights, then the society must receive full assignment of those rights. What cannot be accepted is a position where the promoter retains the superior interest and transfers only a fragment to the society. Both judgments clearly reject such a dilution of statutory protection. Thus, when applied to the present facts, the reasoning in *Farhat* and *Mr. Haresh Bhatia* strengthen the conclusion that the impugned order granting deemed conveyance, to the extent of the promoter's entire interest, is in consonance with the statutory scheme and does not suffer from legal infirmity.

IX. Petitioners' Case Based on Lease Structure:

64. The main submission of the petitioner is that from the very beginning the transaction contemplated only grant of leasehold rights and never transfer of ownership in the land. This argument is founded on the Letter of Allotment, the Development Agreement and the flat purchase agreements. Clause 7 of the Letter of Allotment states that the society would execute a lease in favour of the allottees or their nominees, including a cooperative housing society to be formed by flat purchasers. It further provides that the transfer of shares and rights would be subject to payment of consideration and completion of construction. On a plain reading, this clause shows that the original understanding between the allotting society and the allottees was that a lease would be granted. Based on this clause, it is argued that the nature of rights in the plot was always leasehold and therefore the society of flat purchasers cannot now seek conveyance of ownership. The Development Agreement dated 28 April 1980 is then relied upon. Recital (iii) records that the vendors had agreed to construct the building and sell flats on ownership basis, subject to the Letter of Allotment and the subsequent deed of lease to be executed by the society. Clause 11 speaks about obtaining permission for lease. Clause 12 refers to making out marketable title for leasing the plot to the cooperative society to be formed. Clause 17 contemplates execution of an indenture of lease for a term of nine years with option of renewal. Clause 25 permits assignment of development rights subject to the Letter of Allotment. From these clauses, the petitioner submits that the entire structure of the transaction is

lease based. It is further pointed out that when the petitioner constructed the building and entered into agreements with flat purchasers, those agreements also referred to lease. Clause 10 of the flat agreement states that the plot shall be obtained on lease and that the word “conveyance” shall mean the lease to be executed in favour of the society. Clause 34 provides that after sale of all flats and formation of society, the sellers shall procure an indenture of lease of the land in favour of the society. Thus, according to the petitioner, every document in the chain consistently speaks of lease and not sale. Therefore, it is contended that the competent authority could not have directed conveyance of ownership and could at best direct execution or assignment of lease.

65. This submission must be examined in light of the statutory scheme already discussed. The Letter of Allotment and Development Agreement are inter se documents between the owner society, the allottees and the developer. They regulate internal rights. They do not override the mandate of Section 11 of MOFA. If the promoter is owner of the land, he cannot by private arrangement convert his ownership into a limited lease merely to avoid statutory transfer. The use of the word “lease” in the documents is not decisive by itself. The real question is what title the promoter actually held. If the promoter was only a lessee from a superior owner, then obviously the society can receive only assignment of that leasehold interest. But if the promoter was absolute owner of the land, then a clause stating that only lease will be granted cannot defeat Section 11. The flat purchase

agreements repeatedly state that flats are sold on “ownership basis.” A flat sold on ownership basis necessarily carries proportionate interest in the land. The law does not recognise ownership of a flat floating in air without interest in the underlying land. Construction is possible only because of FSI generated from the land. Therefore, sale of flats on ownership basis necessarily dilutes the promoter’s title in the land. The clause in the flat agreement which says that “conveyance” shall mean lease cannot be read to defeat the Act. If such clauses are accepted as final, every promoter would simply draft the agreement in that manner and permanently retain ownership of the land. That is precisely the mischief Section 11 was enacted to cure. Clause 34 itself shows that after sale of all flats and formation of society, the seller must procure execution of lease of land and building in favour of the society. This indicates that once the project is complete and all dues are paid, the land and building must vest in the collective body of purchasers. The only dispute is about the nature of estate. That issue depends on what the promoter actually owned. Therefore, the petitioner’s reliance on these clauses cannot by itself conclude the issue. If the promoter’s title in the land was leasehold, the society will receive that leasehold interest in full. If the promoter was owner, the society is entitled to ownership. The documents cannot be read in isolation from Section 11. The contractual clauses relied upon by the petitioner may show the understanding between the parties at the time of development. However, they cannot dilute the statutory obligation to convey the entire right, title and interest held by the

promoter. The ultimate entitlement of the society must be determined by the nature of title held by the promoter and the mandate of Section 11, not merely by the language chosen in private agreements.

X. Consent Terms and Reliance on Other Cases:

66. The petitioners argue that the competent authority wrongly relied upon the consent terms entered in Suit Nos. 1648 and 1649 of 1979. According to them, those consent terms only resulted in Ratan CHS stepping into the position of the original owners. Therefore, the petitioners contend that the legal character of the property did not change. They submit that the original allottees and the developers claiming through them continued only as lessees or tenants under Ratan CHS. Based on this, the petitioners say that there was always a clear covenant that only lease rights would be granted. Since the parties had agreed to such an arrangement, the society formed by flat purchasers cannot now claim ownership or conveyance beyond leasehold rights. Their submission is that the society is bound by the same chain of documents and cannot seek a better title than what the allottees and developers possessed. The petitioners further rely on another matter concerning Mahavir CHS arising from the same larger property. In that case, the authority granted only assignment of lease and not conveyance of ownership. That order, according to the petitioners, was upheld by this Court in Writ Petition No. 6167 of 2022. They therefore argue that consistency requires a similar outcome in the present case.

67. These submissions require careful examination. It is correct that consent terms in earlier litigation may determine who stepped into the shoes of the original owner. However, stepping into the shoes of the owner means stepping into the rights and obligations attached to that ownership. If Ratan CHS became owner or acquired ownership rights through the consent terms, then it also inherited the statutory obligations under MOFA once flats were sold and a society was formed. The consent terms cannot be read only to preserve rights while ignoring statutory duties. The argument that allottees and developers continued only as lessees depends entirely on the nature of title actually held. Merely describing parties as lessees or tenants in documents does not automatically conclude the issue. The Court must examine whether the promoter or owner in reality held freehold title or only leasehold rights. If the promoter had ownership, Section 11 requires transfer of that ownership. If the promoter had only leasehold rights, then assignment of lease would follow. The statute controls the outcome, not labels used in private arrangements.

XI. Relevance of the order in the Mahavir CHS case:

68. The petitioners have placed strong reliance on the order passed in the matter concerning Mahavir CHS. According to them, since the authority in that case granted only assignment of lease and not conveyance of ownership, a similar result must necessarily follow in the present matter. This submission, though attractive at first glance, cannot be accepted without a closer examination of the legal position.

69. Every proceeding for deemed conveyance under Section 11 of MOFA is fact specific. The competent authority examines the nature of title held by the promoter, the documents executed between parties, the approvals obtained, and the actual legal interest available for transfer. Therefore, an order passed in another case cannot be treated as laying down a universal rule unless the factual foundation is shown to be identical in all material respects. It is also necessary to remember that deemed conveyance orders do not create general precedents in the way a statutory interpretation judgment may do. They are based on examination of individual title documents. One plot within a larger layout may be held on different terms than another. Development agreements may vary. Conditions imposed by authorities may differ. Even the chain of title may not be identical. Therefore, similarity of location or common history of land does not by itself justify applying the same result mechanically.

70. The statutory test under Section 11 remains constant. The society is entitled to receive the entire right, title and interest held by the promoter. Once that principle is applied, outcomes may differ from case to case because the promoter's interest itself may differ. In one case it may be leasehold. In another, it may be ownership. The law does not insist on uniform results. It insists on correct transfer of the promoter's actual estate.

71. The petitioners also rely on consent terms and earlier arrangements to argue that the society is permanently confined to leasehold rights. This argument overlooks the nature of statutory rights under MOFA. Consent terms may explain how title moved

from one party to another. They may provide background to the transaction. But they cannot override the statutory mandate that the promoter must convey his full interest to the society. Private arrangements cannot dilute rights created by legislation enacted for protection of flat purchasers.

72. Likewise, the fact that another writ petition concerning Mahavir CHS resulted in upholding assignment of lease cannot decide the present dispute. The Court cannot substitute factual analysis with analogy. Before applying any earlier order, the Court must ask a simple question. What interest does the promoter presently hold in the land and building. Once that question is answered, Section 11 itself dictates the result. If the promoter holds ownership, ownership must pass. If the promoter holds leasehold rights, full leasehold must pass. No further comparison with another case is necessary.

73. In this view of the matter, the reliance placed on the Mahavir CHS order does not advance the petitioners' case. That decision was based on its own factual matrix. It cannot be treated as creating a binding rule that all plots in the larger property must result in leasehold assignment. The present matter must be decided on its own title position and in accordance with the statutory mandate. Once the promoter's real interest is identified, the society becomes entitled to receive the whole of that interest and nothing less.

XII. Respondent Society's Submissions and Effect of Municipal Conditions:

74. The petitioners have tried to present the entire transaction as one which was always intended to remain lease based. According to them, the allotment letters, development agreements and flat purchase documents show that only leasehold rights were contemplated and therefore the society cannot seek ownership. The issue cannot be decided merely by reading clauses that refer to a future lease. The Court must examine whether such a lease ever came into legal existence and whether the surrounding statutory and municipal framework actually permitted it at the relevant time.

75. It is established that Respondent No. 3, Ratan Co operative Housing Society Limited, is the owner of the plot. The Municipal Corporation of Greater Mumbai granted permission for development on 26 February 1980. That permission was not unconditional. The land was under Public Housing reservation, and therefore the Corporation imposed specific restrictions. Condition (f), which assumes importance in the present case, prohibited leasing or resale of plots for a period of ten years. If leasing itself was prohibited by the municipal authority for ten years, then the petitioners' contention that leasehold rights were intended from the very beginning becomes legally doubtful. A transaction cannot be presumed to have created leasehold rights when the regulatory framework itself prevented execution of a lease. The allotment in favour of Mr. Pravin Shah and Ms. Vanila Shah therefore could not amount to a registered lease in law. It

was only an allotment arrangement. The distinction is significant. An allotment may indicate intention or future expectation, but it does not by itself create a legal leasehold estate unless a formal lease deed is executed in accordance with law. The material on record shows that even after expiry of the period, no registered lease was actually executed by Respondent No. 3 in favour of the allottees or the developer. The petitioners repeatedly rely upon clauses which speak of a lease to be granted in future. But those clauses remain only contractual expressions of intention. In property law, an intention to grant a lease in future does not create present leasehold rights. Rights in immovable property arise only when a proper instrument is executed and registered. The absence of such an instrument means that the proposed leasehold structure never matured into a legally enforceable estate.

76. Once this factual position is accepted, the entire argument that the society is confined to leasehold rights loses its basis. The Court cannot proceed on hypothetical arrangements that were contemplated but never completed. The chain of title must be examined as it actually exists, not as it was planned to exist. The promoter or developer cannot rely on an unexecuted proposal to restrict the statutory entitlement of the society.

77. Further, the respondent society rightly points out that Respondent No. 3 continued to hold ownership and that construction proceeded with permissions obtained in its name. Under Section 2(c) of MOFA, the definition of promoter includes not only the person who physically constructs but also the person who causes construction to be undertaken. Therefore, when the

owner secures permissions, enables development and allows construction to proceed through a developer, the owner falls within the statutory definition of promoter. The law looks at the substance of the arrangement and not merely the labels used in agreements.

78. Once Respondent No. 3 is seen as a promoter within the meaning of Section 2(c), the statutory consequence follows automatically. Section 11 casts an obligation on the promoter to convey his right, title and interest in the land and building to the society formed by flat purchasers. The duty is statutory and cannot be avoided by pointing to incomplete or proposed arrangements for lease.

79. In this background, the respondent society's submission shows the weakness in the petitioners' case. Their argument proceeds on the assumption that a leasehold structure existed. The record shows otherwise. The municipal condition initially prohibited leasing. No registered lease was ever executed thereafter. What remains is ownership with the promoter who caused construction. Therefore, the statutory obligation under Section 11 to convey that ownership to the society stands attracted. The society cannot be denied its statutory right on the basis of a lease that never came into existence in law.

XII. Final Findings and Conclusion:

80. The petitioners' reliance on earlier consent terms and allotment letters cannot override this statutory obligation. Internal arrangements cannot nullify the mandate of Section 11. The Act

does not permit the promoter to retain ownership merely because earlier documents contemplated a lease that was never actually executed. It is also relevant that the Public Housing reservation condition shows that the transaction structure was influenced by regulatory restrictions. The absence of a lease is not accidental. It flowed from the prohibition imposed by the municipal authority. Therefore, the petitioners cannot now rely on a contemplated lease to deny the society its statutory right. In these circumstances, the respondent society's submission carries weight. The land continues to be owned by Respondent No. 3. No lease has been executed. Construction has been completed. Flats have been sold. Society has been formed. The statutory stage for conveyance has arrived.

81. Therefore, the contention of the petitioners that the society is entitled only to leasehold rights cannot be accepted. The factual and legal position shows that there is no subsisting lease to assign. What exists is ownership in the hands of the promoter. Under Section 11, that ownership must be conveyed to the society. The claim of the petitioners to restrict the society to a lesser estate is therefore unsustainable.

82. In view of the discussion above, this Court is satisfied that the objections raised by the petitioners are without merit. The statutory scheme under Section 11 of the Maharashtra Ownership Flats Act, read with the Rules and Form V agreement, makes it clear that the promoter is bound to convey to the society the entire right, title and interest held by him in the land and building. The documentary reliance placed by the petitioners on allotment letters, development agreements and flat purchase agreements

cannot override this statutory mandate. The factual position shows that no executed lease ever came into existence and the land continues to vest in the owner who caused the construction and therefore answers the description of promoter under Section 2(c). The competent authority has correctly exercised jurisdiction in directing conveyance in favour of the respondent society. No jurisdictional error, perversity or manifest illegality is demonstrated warranting interference in writ jurisdiction. The petitions, therefore, deserve to be dismissed. Hence, following order is passed:

OPERATIVE ORDER

- (i) The writ petitions stand dismissed.
- (ii) The impugned order passed by the competent authority granting unilateral deemed conveyance in favour of the respondent society is upheld.
- (iii) The competent authority and the concerned registering authority shall proceed to give effect to the impugned order and complete all consequential steps in accordance with law.
- (iv) It is clarified that the observations made herein are for the purpose of adjudication of the present writ petitions and shall not preclude any party from pursuing appropriate remedies before the competent civil court in accordance with law.
- (v) Rule stands discharged. No order as to costs.

(vi) All pending interlocutory application(s) stand disposed of in terms of this order.

(AMIT BORKAR, J.)