



Shabnoor

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

## WRIT PETITION NO.11982 OF 2025

## WITH

## WRIT PETITION (ST.) NO.29872 OF 2025

# SHABNOOR AYUB PATHAN

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# Sandeep Bhausaheb Shelar

Age 45 years, Occupation Service,

R/at: Falt No.C/2-501, Urban Gram,

## Survey No.134, Village Jalochi.

Taluka Baramati, Pune 413 102

... Petitioner

**V/s.**

1. **The State of Maharashtra**, through its Principal Secretary, Ministry of Cooperation, having office at Mantralaya, Mumbai.
2. **The Divisional Joint Registrar of Cooperative Societies**, Pune Division, Pune, office at Ground Floor, Sakhar Sankul, Shivajinagar, Pune 05
3. **The Assistant Registrar of Coop. Societies**, Baramati, Taluka Baramati, District Pune.
- 3A. **Pramod Durgude**, Assistant Registrar of Cooperative Societies, Baramati, Taluka Baramati, Pune.
4. **R.V. Realty**, a partnership firm, registered under the Partnership Act, 1932, having its registered office at 101/102, Lotus Plaza, Opp. Sangam Press, Karve Road, Kothrud, Pune 411 038, through it's partner

5. **Dhananjay Shivajirao Nimbalkar,**  
R/at: Row House No.14, Swapnashilp,  
Near City Pride Multiplex,  
Ganeshnagar, Kothrud, Pune 411 038
6. **Milind Dhansingh Jadhav,**  
R/at H-01, Pinak Memories, Phase 02,  
Rahulnagar, Kothrud, Pune 411 038.
7. **Rohit Dhansingh Jadhav,**  
R/at: 'Dhanashri', Malegaon Colony,  
Baramati, Pune 413 115.
8. **Sachin Balkrishna Kulkarni,**  
R/at: Bhuvi 304, Mahatma Society,  
Kothrud, Pune.
9. **Sanyukt Coop. Housing Society,**  
registered under the MCS Act, 1960  
Reg. No.PNA/BAI/HSG/TO/4558/  
1999-2000, Gat No.134/A, Jalochi,  
Taluka Baramati, District Pune
10. **Sanmitra Coop. Housing Society,**  
registered under the MCS Act, 1960  
Reg. No.PNA/BAI/HSG/TO/4559/  
1999-2000, Gat No.134/A, Jalochi,  
Taluka Baramati, District Pune
11. **Mahesh J. Shirke,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102
12. **Sanjay Jadhav,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102
13. **Shalan K. Pawar,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,

District Pune 413 102

- 14. Surrendar S. Raina,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102
- 15. Savita A. Kharche,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102
- 16. Nikhil S. Honrao,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102
- 17. Shahanur J. Mulani,**  
R/at Urgan Gram, Survey No.134,  
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- 18. Vijay J. Kale,**  
R/at Urgan Gram, Survey No.134,  
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- 19. Kalpana C. Bhosale,**  
R/at Urgan Gram, Survey No.134,  
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- 20. Abhijeet S. Shende,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102
- 21. Tambare Sachin Dhananjay,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102

**22. Pratik G. Shende,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102

**23. Nikhil V. Gowand,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102

**24. Sana Irfan Kazi,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102

**25. F.A. Patel,**  
R/at Urgan Gram, Survey No.134,  
Jalochi, Taluka Baramati,  
District Pune 413 102

**26. Urban Gram Baramati Sahakari  
Grihanirman Sanstha Maruadit (Urban  
Gram Coop. Housing Society Ltd.,)  
Add.: Survey No.134/1/1,  
Jalochi, Taluka Baramati,  
District Pune 413 102** ... Respondents

**WITH  
WRIT PETITION NO.11988 OF 2025**

**Sandeep Bhausaheb Shelar,**  
Age 45 years, Occupation Service,  
R/at: Flat No.C/2-501, Urban Gram,  
Survey No.134, Village Jalochi,  
Taluka Baramati, Pune 413 102 ... Petitioner

**V/s.**

**1. The State of Maharashtra,**

through its Principal Secretary,  
Ministry of Cooperation, having  
office at Mantralaya, Mumbai.

2. **The Divisional Joint Registrar of Cooperative Societies**, Pune Division, Pune, office at Ground Floor, Sakhar Sankul, Shivajinagar, Pune 05
3. **The District Deputy Registrar of Coop. Societies**, Pune Gramin
4. **The Assistant Registrar of Coop. Societies**, Baramati, Taluka Baramati, District Pune
- 4A. **Pramod Durgude**, Assistant Registrar of Cooperative Societies, Baramati, Taluka Baramati, Pune.
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Gram Coop. Housing Society Ltd.,)  
Add.: Survey No.134/1/1,  
Jalochi, Taluka Baramati,  
District Pune 413 102** ... Respondents

Mr. Shrivallabh S. Panchpor with Mr. Nilesh Angad Chaudhari for the petitioner.

Mr. Y.D. Patil, AGP for respondent Nos.1 to 4-State in WP/11982/2025.

Mr. S.H. Kankal, AGP for respondents-State in  
WP/11988/2025.

Mr. P.V. Nelson Rajan, AGP for respondent Nos.1to 4-State in WPST/29872/2025.

Mr. Shailendra S. Kanetkar with Mr. Shubham Suryawanshi for respondent Nos.5, 7, 13 to 23 & 25.

Mr. Mahesh Shirke for respondent No.11

Ms. Laurdu Agnes Merlin for respondent No.24.

**CORAM** : AMIT BORKAR, J.

**RESERVED ON : DECEMBER 28, 2023**

1. Since the factual matrix, the surrounding circumstances, and the questions of law arising in all these petitions are substantially

identical, they are being disposed of by this common judgment.

2. In Writ Petition No.11982 of 2025, the petitioner assails the order dated 21 August 2025 passed by the Divisional Joint Registrar in Revision Application No.217 of 2025, whereby the order dated 9 June 2025 passed by the Assistant Registrar permitting the Chief Promoter of respondent No.9 society to open a bank account in the name of the proposed society came to be confirmed.

3. In Writ Petition No.11988 of 2025, the challenge is to the order dated 21 August 2025 passed by the Divisional Joint Registrar in Appeal No.61 of 2025, by which the order dated 17 June 2025 passed by the District Deputy Registrar was affirmed. By the said order dated 17 June 2025, the District Deputy Registrar rejected the petitioner's application under sub section (1) of Section 10 of the Maharashtra Ownership Flats Act, 1963 on the ground that the developer had already initiated steps for formation of a cooperative society and that permission had been granted by the Assistant Registrar to open a bank account for that purpose.

4. In Writ Petition (ST) No.29872 of 2025, the petitioner challenges the order dated 21 August 2025 passed by the Divisional Joint Registrar in Appeal No.62 of 2025, confirming the order dated 18 June 2025 of the Assistant Registrar, whereby registration was granted to respondent No.9 society.

5. The background facts giving rise to the present petitions are as follows. Land bearing Gat Nos.134/1 and 134/2, ad measuring 26,000 square meters, situated at Village Jalochi within the

jurisdiction of Baramati Municipal Council, forms the subject matter of agreements executed under Section 4 of MOFA. The promoter obtained construction permission on 18 June 2015. Thereafter, between the years 2015 and 2021, agreements under Section 4 of MOFA were executed in favour of various flat purchasers.

6. As the developer failed to take steps for registration of a cooperative society within the time stipulated under Section 10 of MOFA, a meeting of flat purchasers was convened on 26 February 2025. In the said meeting, the petitioner was appointed as Chief Promoter. Pursuant thereto, on 12 March 2025, the petitioner submitted an application before the District Deputy Registrar seeking registration of a cooperative society under the first proviso to Section 10(1) of MOFA. On 21 March 2025, the District Deputy Registrar issued notice to the promoter and fixed Application No.36 of 2025 for hearing on 7 April 2025.

7. On 8 April 2025, the petitioner addressed a representation to the Assistant Registrar stating that the developer had failed to form the society within the prescribed period and informing that Application No.36 of 2025 had already been filed before the District Deputy Registrar in his capacity as duly appointed Chief Promoter.

8. On 13 May 2025, one Rohit Jadhav, claiming to be the Chief Promoter, submitted a proposal before the Assistant Registrar for reservation of the name of a proposed society. A hearing on the said proposal was conducted on 3 June 2025. By communication

dated 4 June 2025, the Assistant Registrar returned the proposal pointing out certain objections. On 5 June 2025, Rohit Jadhav informed the Assistant Registrar that the objections had been complied with and stated that a meeting of flat purchasers had been held on 21 April 2025.

9. Thereafter, on 9 June 2025, the Assistant Registrar permitted Rohit Jadhav to open a bank account in the name of the proposed society, without advertizing to the petitioner's objection regarding the pendency of his earlier application before the District Deputy Registrar. On 10 June 2025, Rohit Jadhav submitted a fresh proposal accompanied by an affidavit and declarations purportedly executed by 84 flat purchasers.

10. On 10 June 2025, the District Deputy Registrar conducted a hearing on the petitioner's proposal. By order dated 17 June 2025, the petitioner's application was rejected solely on the ground that permission had already been granted on 9 June 2025 by the Assistant Registrar to open a bank account in the name of the proposed society. Subsequently, by order dated 18 June 2025, the Assistant Registrar granted registration to respondent No.9 society on the basis of the proposal submitted by Rohit Jadhav.

11. Being aggrieved, the petitioner preferred Revision Application No.217 of 2025 challenging the order dated 9 June 2025, Appeal No.61 of 2025 assailing the order dated 17 June 2025, and Appeal No.62 of 2025 questioning the order dated 18 June 2025 granting registration of the society. By a common order dated 21 August 2025, the Divisional Joint Registrar dismissed the

said revision and appeals. The present petitions arise from the said common order.

12. Mr. Panchpor, learned counsel for the petitioner, contended that the petitioner's proposal dated 12 March 2025 was prior in point of time to the proposal submitted by the developer on 13 May 2025. He submitted that the pendency of the petitioner's proposal had been specifically brought to the notice of the Assistant Registrar. In spite of such disclosure, the Assistant Registrar permitted the developer to open a bank account and thereafter proceeded to reject the petitioner's proposal by placing reliance upon the said permission. He further submitted that until the petitioner's earlier proposal was adjudicated and decided in accordance with law, it was not open to the Assistant Registrar to grant permission to the developer to open a bank account in the name of the proposed society.

13. Learned counsel submitted that the total land covered by agreements executed under Section 4 of MOFA ad measured 26,000 square meters. However, the proposal submitted by the developer referred only to an area of 7,903.86 square meters, thereby substantially curtailing the area proposed to be included within the society. He contended that in the meeting of flat purchasers held on 26 February 2025, the petitioner was duly appointed as Chief Promoter. In view of such appointment, any subsequent appointment of another person, and particularly of the developer himself, as Chief Promoter was wholly without authority and contrary to law.

14. It was further submitted that 84 flat purchasers had filed affidavits before the Assistant Registrar asserting that their signatures were obtained by fraud and misrepresentation and that no general body meeting had in fact been convened for appointing the developer as Chief Promoter. Despite these serious objections, the Assistant Registrar proceeded to grant registration to respondent No.9 society by order dated 18 June 2025 at the instance of the developer. According to the petitioner, the developer filed the subsequent proposal with a view to restrict the area of the society, especially when part of the construction was yet to be completed. By permitting registration on the basis of such proposal, the area to vest in the society stood substantially reduced. On these grounds, it was urged that the impugned orders passed by the Assistant Registrar and the District Deputy Registrar are liable to be quashed and set aside.

15. In reply, Mr. Kanetkar, learned counsel appearing for respondent Nos.5, 7, 13, 23 and 25, submitted that neither the provisions of MOFA nor those of the Maharashtra Cooperative Societies Act, 1960 impose any bar on simultaneous proceedings under Sections 9 and 10. He contended that the proposal dated 13 May 2025 submitted by the developer bore the signatures of 142 out of 252 flat purchasers, thereby reflecting the support of a clear majority.

16. He further submitted that among the 84 persons who had filed affidavits alleging fraud, several were not flat purchasers and some had not even signed the original proposal. Their affidavits, therefore, could not be accorded evidentiary value. It was also

submitted that the petitioner had remained present before the Assistant Registrar on 3 June 2025 and had expressed willingness to withdraw his proposal subject to the developer signing the requisite Z form. Upon removal of the objections raised, the Assistant Registrar was justified in permitting the developer to open the bank account.

17. It was lastly submitted that under the scheme of MOFA, the promoter has the initial right to take steps for formation of the cooperative society. The petitioner has failed to demonstrate any legal prejudice merely on the ground that registration was granted at the instance of the developer. On this basis, dismissal of the petitions was sought.

18. Respondent No.3A has placed on record a personal affidavit in support of the order passed by him. In the said affidavit, it is contended that Sections 10 and 11 of the Maharashtra Ownership Flats Act cast a statutory obligation upon Respondent Nos.4 to 7, being the promoter and concerned parties, to take steps for formation and registration of the cooperative society upon sale of flats. According to Respondent No.3A, the said obligation stood duly discharged by Respondent Nos.4 to 7, and therefore the action taken by him was in conformity with the statutory mandate.

19. With regard to the allegations of forgery and fabrication of documents, Respondent No.3A has stated that the petitioner has not annexed the specific documents alleged to have been forged. It is further stated that the authority does not possess investigative powers to verify the authenticity of signatures or documents, and

therefore the allegation of forged documents cannot be accepted in the absence of cogent material placed on record. It is also asserted in the affidavit that registration of the society at the instance of Respondent Nos.4 to 7 does not result in any legal prejudice to the petitioner. According to Respondent No.3A, the petitioner's rights remain unaffected merely because the society has been registered on the proposal submitted by the said respondents.

**Reasons and analysis:**

20. A quasi judicial authority, though not bound by the strict rules of procedure applicable to civil courts, is still required to act in a manner that is fair, transparent and consistent with the basic principles of natural justice. It cannot adopt a course of action that extinguishes the rights of parties without first adjudicating upon a pending claim that directly concerns the same subject matter. When a statutory authority is apprised that an application has already been filed and is under consideration, it is incumbent upon that authority to deal with such application in accordance with law before taking any step that may render the adjudication infructuous.

21. Where two competing proposals are placed before the authority and one of them is admittedly prior in point of time, the chronology assumes importance. An earlier proposal which discloses a *prima facie* claim under the statute cannot be ignored. The authority must first examine whether such proposal satisfies the statutory requirements and whether it has been validly filed. Only after recording a reasoned conclusion on that proposal can

the authority proceed to consider any subsequent proposal. This procedure ensures fairness in quasi judicial decision and prevents quasi judicial proceedings from superseding earlier proceedings.

**22.** If, instead, the authority permits the later applicant to undertake consequential steps such as opening a bank account, completing formalities, or securing registration, and thereafter uses those very steps as a ground to reject the earlier application, the process becomes self defeating. The earlier claimant is effectively denied a real opportunity of consideration. Such action amounts to supersession of a pending statutory application. It creates a fait accompli and shifts the balance arbitrarily in favour of the subsequent applicant. The law does not countenance such a course.

**23.** This principle is rooted in the broader requirement of fair adjudication. Fairness in administrative law demands that parties who invoke a statutory remedy must receive an effective hearing and a effective consideration of their case. The authority must avoid creating circumstances that predetermine the outcome before adjudication is complete. The duty to act judicially becomes more significant where the rights of numerous flat purchasers are involved and where the decision affects substantive or statutory rights.

**24.** The statutory scheme under the first proviso to Section 10(1) of the Maharashtra Ownership Flats Act strengthens this position. The legislature has consciously provided that where the promoter fails to take steps to form a cooperative society within the

prescribed period, the flat purchasers may themselves initiate the process. This provision is safeguards purchasers from inaction or delay on the part of the promoter. To give full effect to this statutory remedy, the authority must ensure that an application filed by purchasers under the proviso is legally examined. If a subsequent proposal by the promoter is allowed to override or neutralize such earlier application without adjudication, the very purpose of the proviso stands diluted.

25. Therefore, in a situation of competing proposals, adherence to sequence is a substantive safeguard. The earlier proposal must be taken up, heard and decided on its own merits. Only thereafter can the authority consider the rival proposal in accordance with law. Any deviation from this course would defeat the legislative intent underlying Section 10 of MOFA.

26. The record indicates that the petitioner submitted his proposal on 12 March 2025 invoking the first proviso to Section 10(1) of MOFA. It is also borne out from the material placed before this Court that the pendency of the said proposal was specifically brought to the notice of the Assistant Registrar. There is no dispute on this factual aspect. Once such pendency was within the knowledge of the authority, it cast upon him a duty to ensure that no subsequent step was taken which would render ineffective the earlier statutory application.

27. Despite this position, the Assistant Registrar, by order dated 9 June 2025, granted permission to the developer to open a bank account in the name of the proposed society. Opening of a bank

account is an essential stage in the process of registration. It confers a degree of recognition upon the proposal and enables further steps to be completed. When such permission is granted in favour of one claimant while another claimant's application remains pending and undecided, the authority must exercise caution and record reasons demonstrating why such course is justified.

28. The matter did not end there. The District Deputy Registrar, while deciding the petitioner's application on 17 June 2025, rejected it solely on the ground that permission to open a bank account had already been granted to the developer on 9 June 2025. Thus, the very quasi judicial act of permitting the bank account, which was undertaken during the pendency of the petitioner's proposal, became the decisive factor for rejecting that proposal. This reveals that subsequent step was treated as a fait accompli and then relied upon to non suit the earlier applicant. Such a course cannot withstand judicial scrutiny.

29. The sequence of events demonstrates that the earlier filed claim was sidelined by preference shown to a developer's proposal. The statutory right conferred upon flat purchasers under the proviso to Section 10(1) is an important statutory right. Once exercised, it must receive prior consideration. The Act does not contemplate that such right may be defeated by permitting a developer to complete preliminary steps and then citing those very steps as a reason to reject the earlier claim.

30. The permission to open the bank account had a direct impact. It altered the balance between the purchasers and developer. It enabled the developer to advance his proposal to a stage where it appeared more complete and therefore more acceptable. In substance, it curtailed the petitioner's opportunity to have his proposal examined on merits. An authority acting in a quasi judicial capacity is expected to avoid precisely this situation. It must ensure that its orders do not predetermine the outcome of a pending adjudication.

31. The Assistant Registrar ought to have first addressed the fact of pendency and the existence of competing claims. He was required to either await the decision of the District Deputy Registrar on the earlier application or to call upon both parties and consider their rival contentions in a coordinated manner before granting any consequential permission. By failing to do so, and by proceeding in a manner that rendered the petitioner's remedy ineffective, the authority acted in breach of fairness.

32. The petitioner's objection raised a dispute regarding entitlement to initiate registration of the society. Such dispute required careful examination. Instead, the course adopted foreclosed legal consideration. In these circumstances, the action of the Assistant Registrar amounts to impropriety. It also resulted in denial of an meaningful hearing to the petitioner, since the rejection of his proposal was based not on its merits but on a development brought about during its pendency. This approach cannot be sustained in law.

**Submission on area and reduction of society land:**

33. The petitioner has drawn attention to a legal prejudice in the form of extent of land proposed to be included in the society. According to the petitioner, the agreements executed under Section 4 of MOFA pertain to land ad measuring 26,000 square meters. In contrast, the proposal submitted by the developer proceeds on the basis of an area of only 7,903.86 square meters. The difference is substantial and cannot be brushed aside as a clerical variation.

34. If such reduction in area is accepted without proper adjudication, the consequence would not be confined to mere description in documents. The area of the society determines the corpus of property that ultimately vests in the cooperative society. It has a direct bearing on the common amenities, open spaces, development potential, and the collective rights of the flat purchasers. The extent of land forms the foundation of the society's title and its future governance.

35. The purchasers who executed agreements under Section 4 did so on the understanding that the development and the appurtenant land would form part of the overall project. Their rights are linked with that larger parcel of land. If, at the stage of registration of the society, the area is reduced to a fraction of what was originally represented, the impact would be felt by all such purchasers. It may exclude certain portions from the society's domain. It may alter entitlement to common areas. It may also affect future conveyance and transfer of title. They go to the core

of the statutory protection intended under MOFA.

36. In these circumstances, it becomes the duty of the District Deputy Registrar and the Assistant Registrar to undertake a careful scrutiny of the material relating to the area. They must call for the sanctioned plans, the layout approvals, the development permissions, and the agreements executed with purchasers. They must ascertain whether the proposed 7,903.86 square meters represents the entirety of the developed portion intended to form the society or whether it reflects an division of a larger project. The authority cannot proceed on assumptions. It must record clear findings based on documentary evidence.

37. A discrepancy of this magnitude, on the face of it, raises a *prima facie* issue requiring full and reasoned inquiry. It cannot be resolved by preferring one proposal over another on the basis of chronology or numerical strength of signatories. The scope and area of the society must be determined based on material and in accordance with the statutory scheme. Any decision taken without addressing this core issue would be legally unsustainable. Therefore, before granting registration or rejecting a competing proposal, the authorities are bound to satisfy themselves that the area proposed to be included in the society truly reflects the development undertaken and the rights flowing from the agreements executed under Section 4 of MOFA.

**Submission on affidavits alleging fraud:**

38. It has come on record that eighty four individuals have filed affidavits asserting that their signatures were procured by fraud

and misrepresentation and that no valid general body meeting was convened for appointing the developer as Chief Promoter. These assertions are serious in nature. If they are ultimately found to be true, they affect the foundation of the developer's proposal. The legality of the proposal depends upon the free and informed consent of the flat purchasers. Any allegation that such consent was vitiated by deception cannot be treated lightly.

**39.** The respondents, on the other hand, dispute these affidavits. It is contended that several deponents are not genuine flat purchasers and that some of them had not signed the original proposal at all. According to the respondents, the affidavits have been filed only to create an artificial controversy. These rival contentions clearly give rise to disputed questions of fact. They cannot be resolved merely by reading the affidavits or by accepting the respondents' denial at face value.

**40.** An affidavit is a piece of evidence. It is not conclusive proof. Its credibility depends upon the surrounding circumstances and supporting material. Equally, an affidavit cannot be brushed aside simply because it creates inconvenience to one side. The authority exercising quasi judicial powers must scrutinize the contents of affidavit, examine whether the deponents are in fact flat purchasers, verify whether their names appear in the relevant records, and ascertain whether their alleged signatures exist on the proposal documents relied upon by the developer.

**41.** The District Deputy Registrar is, therefore, required to conduct a proper inquiry. This would necessarily involve calling for

the original proposal papers, attendance sheets of the alleged meeting, minutes of the meeting, and the individual agreements executed under Section 4. Such exercise need not assume the character of a full fledged civil trial but it must be sufficient to satisfy the authority that the decision is based on reliable material.

**42.** The determination of who among the signatories are genuine purchasers is a initial step. Only after identifying the genuine group of flat purchasers and ascertaining their true intent can the authority conclude which proposal is in accordance with law. A proposal supported by signatures obtained through misrepresentation cannot be a legal proposal, even if it appears to have been signed by majority of members.

**43.** Therefore, before arriving at any final conclusion regarding registration of the society, the District Deputy Registrar must record clear findings on the authenticity of the signatures and the status of the signatories. Only after such reasoned inquiry can it be determined which proposal truly reflects the majority of the flat purchasers.

**Respondents' plea of majority and promoter's initial right:**

**44.** The developer has placed considerable emphasis on the fact that his proposal carries 142 signatures out of a total of 252 flat purchasers. In matters concerning formation of a cooperative society, the extent of support among purchasers is a relevant consideration. A cooperative society is formed on collective participation, and the authority is justified in taking note of the strength of representation behind a particular proposal.

45. At the same time, the statutory scheme cannot be reduced to a mechanical exercise. MOFA recognises the role of the promoter in initiating the formation of a society. Ordinarily, it is the promoter who is expected to take timely steps to register the society once the requisite number of flats are sold. However, this right is not unfettered. The legislature, by incorporating the first proviso to Section 10(1), has consciously provided a safeguard. Where the promoter fails to act within the stipulated period, the flat purchasers themselves are empowered to move the competent authority for registration. This proviso confers a substantive right upon the purchasers to protect their interest in the event of inaction or delay on the part of the promoter.

46. In the present case, the petitioner's proposal dated 12 March 2025 is founded upon that proviso. It shows effort of the purchasers to exercise the statutory right that arises upon the promoter's default. Once such a proposal is validly filed, it cannot be stepped aside only because the promoter subsequently produces a proposal claiming majority support. The earlier proposal has an independent legal basis. It demands consideration on its own merits.

47. It is also necessary to bear in mind that the claim of majority itself is under challenge. Allegations have been made that certain signatures were obtained by misrepresentation and that the meeting appointing the developer as Chief Promoter was not validly convened. Until these issues are examined, the claim of majority remains provisional. The authority cannot assume that the claim of majority is unquestionable.

48. The District Deputy Registrar must examine whether the petitioner's earlier application satisfies the statutory conditions. He must also scrutinize the developer's claim of majority support, verify the authenticity of the signatures and consider the allegations of fraud. Only after evaluating all these aspects together can he arrive at a reasoned finding as to which proposal has support of majority of the flat purchasers.

49. The majority claim by developer does not validate steps granting permission to open bank account that were taken without addressing a pending registration application. Even a proposal supported by a large number of purchasers must pass the test of legality. Quasi judicial orders that bypass an earlier registration application cannot be justified merely by pointing to majority figures. The statutory remedy conferred upon purchasers must be given meaningful effect, and that requires careful adjudication rather than reliance on mechanical exercise.

**Defense raised by respondent No. 3A:**

50. Respondent No.3A has filed a personal affidavit seeking to justify the order passed by him. In the said affidavit, he has placed reliance upon Sections 10 and 11 of the Maharashtra Ownership Flats Act and has contended that the promoter is under a statutory obligation to take steps for formation and registration of a cooperative society once the requisite number of flats are sold. According to him, Respondent Nos.4 to 7 had initiated such steps and had thus discharged the statutory obligation cast upon them. It is, therefore, asserted that the action taken by him in permitting

the process to move forward at the instance of the promoter was in furtherance of the statutory scheme and not in derogation thereof.

51. This submission, though attractive at first glance, cannot be accepted in its entirety. The obligation of the promoter under Sections 10 and 11 is not in dispute. However, the statute does not confer an exclusive or unqualified right upon the promoter in all circumstances. The first proviso to Section 10(1) expressly enables the flat purchasers to step in where the promoter fails to form the society within the prescribed time. In the present case, the petitioner's application dated 12 March 2025 was filed invoking that very statutory right. Once such application was made and its pendency was brought to the notice of Respondent No.3A, the situation ceased to be a simple case of promoter compliance. It became a contested proceeding requiring careful adjudication.

52. The record reveals that the petitioner's proposal was kept pending while, in the meantime, permission was granted to the developer to open a bank account and complete consequential steps. Thereafter, the pendency of such steps was cited as a ground to reject the petitioner's application. This sequence has the effect of conferring an undue advantage upon the developer. The authority was expected to maintain impartiality between competing claimants. Instead, the manner in which the proceedings were disposed of indicates that the promoter's proposal was allowed while the earlier application of the purchasers remained undecided. Even if there was no conscious bias, the perception of undue favour cannot be ignored when an earlier statutory application is effectively rendered redundant by subsequent order

favouring developer to gain advantage claiming alleged less area.

53. Respondent No.3A has further contended that the petitioner has not annexed specific forged documents and that the authority has no powers to verify authenticity of signatures. It is correct that the Registrar is not conducting a criminal trial. However, when 84 affidavits are placed on record alleging that signatures were obtained by fraud, the authority cannot decline inquiry on the ground of lack of power. A quasi judicial authority is empowered to call for original documents, compare signatures on the proposal with those on registered agreements and satisfy itself about prima facie authenticity. To reject such affidavits summarily on the ground that it has no power would amount to failure of adjudicatory responsibility.

54. The submission relating to absence of legal prejudice to the petitioner also cannot be accepted. Registration of a society on the basis of a proposal that excludes substantial land area, namely reduction from 26,000 square meters to 7,903.86 square meters, has civil consequences. It affects the area of property that will ultimately vest in the society. It determines the collective rights of members in respect of common areas, amenities, and future conveyance. If such reduction is accepted without adjudication, purchasers who entered into agreements under Section 4 on the footing of a larger development stand to be prejudiced. The assertion that the petitioner's rights remain unaffected merely because registration has been granted is not borne out by the statutory scheme.

55. The respondents have also relied upon majority support and the promoter's initial right to initiate formation. As already discussed, majority support is a relevant factor. It must be considered against the earlier statutory application filed by the purchasers and against the allegations of fraud in procuring signatures. The promoter's initial obligation under Section 10 cannot override the statutory safeguard provided to purchasers when the promoter fails to act within time. In the present case, the authority was required to consider these rival claims in accordance with law. Instead, the manner adopted created an impression that the promoter's proposal was given precedence without first resolving the objections raised by the purchasers.

56. In this backdrop, while this Court refrains from recording any finding of misconduct, it considers it appropriate that the conduct of the Assistant Registrar, who has been impleaded by name as respondent No.3A, be examined by the competent authority.

57. This Court is conscious that every erroneous order does not amount to misconduct. At the same time, where the material suggests that a statutory remedy invoked by flat purchasers was made infructuous by order favouring a developer, the matter cannot be treated as a mere error of judgment. The authority was under a duty to first address the pending application of the purchasers. Instead, concrete steps were permitted in favour of the developer, and those very steps were later relied upon to reject the purchasers' claim. Whether such conduct reflects only a mistaken understanding of law or discloses something more, including

possible abuse of quasi judicial power, is a matter that requires examination by the competent disciplinary authority.

58. For the reasons stated above I pass following order.

59. The orders dated 9 June 2025 and 18 June 2025 passed by the Assistant Registrar, the order dated 17 June 2025 passed by the District Deputy Registrar and the common order dated 21 August 2025 of the Divisional Joint Registrar are quashed insofar as they rest on the procedural sequence that precluded decision of Application No.36 of 2025.

60. Application No.36 of 2025 filed by the petitioner shall be restored to the file of the District Deputy Registrar and decided afresh on merits. The District Deputy Registrar shall consider the competing proposal filed by the developer and the affidavits filed by the 84 purchasers. The inquiry shall include verification of signatures, examination of whether deponents are genuine flat purchasers, inspection of original documents where necessary and assessment of the correct area to be included in the society. The District Deputy Registrar shall record reasons for acceptance or rejection of any document or affidavit.

61. Pending final decision by the District Deputy Registrar, the Assistant Registrar shall not take any further step to give effect to the developer's bank account permission or to the registration so as to prejudice the outcome of Application No.36 of 2025. If any transactions have been effected in the bank account opened on 9 June 2025 those transactions shall be frozen to the extent necessary to preserve the rights of parties pending final

adjudication. The District Deputy Registrar may direct limited access for purposes of maintenance subject to adequate safeguards, if required.

**62.** The District Deputy Registrar shall conclude the inquiry and pass a reasoned order within eight weeks from the date on which the record is placed before him.

**63.** Accordingly, while setting aside the impugned orders, this Court directs that the State Government, through the office of the Registrar of Cooperative Societies, shall place the entire original record of Application No.36 of 2025, all connected proceedings, roznama, and a copy of this judgment before the competent disciplinary authority within a period of four weeks from today. The disciplinary authority shall independently scrutinize the record and determine whether a *prima facie* case exists for initiation of departmental enquiry against the Assistant Registrar, respondent No.3A, Mr. Pramod Durgude, in the light of the principles laid down by the Supreme Court in *Union of India v. K.K. Dhawan*, (1993) 2 SCC 56.

**64.** The competent authority shall consider whether the material discloses elements such as recklessness, deliberate disregard of statutory provisions, bias, or extraneous consideration. Such determination shall be made strictly in accordance with the applicable service rules and on the basis of the record. The decision as to whether departmental proceedings are to be initiated shall be taken within eight weeks thereafter and communicated to the concerned authority in accordance with law.

65. The petitions are disposed of in above terms.
66. List the petitions for compliance on **28 April 2026**.
67. Pending interlocutory application(s), if any, stands disposed of.

**(AMIT BORKAR, J.)**