

CONVEYANCE &
COMPLIANCE

DEEMED CONVEYANCE

**Adv. Naresh Pai,
Advocates High Court,
Legal Advisors &
Consultants**

CONVEYANCE

- **Meaning of Conveyance :**
Transfer the title of
LAND & BUILDING
in the SOCIETY NAME.



- **Objects :**
 - **To become the legal owner**
 - **To make entries in Govt. Records**
 - **To have free and marketable title**

ADVANTAGES OF CONVEYANCE

- **Transfer of Ownership Rights over the land**
- **All Commercial benefits come to Society**
- **Appreciation of Property as also**
- **Loan can be raised by mortgage**
- **Balance FSI can be retained**
- **Permission for redevelopment possible**

CONVEYANCE

LAND



BUILDING



METHODS /WAYS TO GET CONVEYANCE

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graph TD; A[METHODS /WAYS TO GET CONVEYANCE] --> B[BY BUILDER]; A --> C[THROUGH COURT CASES]; A --> D[DEEMED CONVEYANCE];
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**BY
BUILDER**

**THROUGH
COURT CASES**

**DEEMED
CONVEYANCE**

CONVEYANCE BY BUILDER

1. Approach the Builder

**2. Collect all Document
of Land & Building &
Member.**

3. Prepare & Approach Conveyance Deed

4. Adjudication & Pay Stamp Duty



CONVEYANCE BY BUILDER

- 5. Register Conveyance Deed by Authoring sub Registrar office by all parties**
- 6. Obtain Index - II & Original Conveyance Deed**
- 7. Apply City Survey Office & get the Property Card changed in the Name of Society.**

**U/S11. OF MOFA, 1963
TO CONVEY LAND AND
BUILDING WITHIN 4 MONTHS**

**Court cases- Legal Remedies
Existing till 2005**

**Through
Competent Authority as per
MOFA-Amendment-2008**

**Civil Court
U/Specific
Relief
Act, 1963**

**Consumer Court
U/ Consumer
Protection
Act, 1986**

**Criminal
Court
U/S-13 of
MOFA 1963**

**Dy.Dist.Regr,
C.A notified
as Competent
Authority**

**Amendment to Rules were made to implement
the functioning of Competent Authority and MOF
(Amendment) Rules, 2010 notified**

DEEMED CONVEYANCE BY Competent Authority

- 1. MOFA was amended on 25th February, 2008**
- 2. Dy. Dist. Regr, C.A notified as Competent Authority**
- 3. Amendment to Rules were made to implement the functioning of Competent Authority and MOF (Amendment) Rules, 2010 notified**

Now, you can send your builder to jail

In her first major gift to state, President Pratibha Patil gives her assent to a Bill to enable flat-owners to have rights over the building plot too; builders who don't comply with the law, may end up behind bars

RAVIKIRAN DESHMUKH

Residents can now send a builder to jail if he fails to hand over the society's plot to them within a specified period. A Bill to this effect got President Pratibha Patil's assent on Friday.

With her assent, lakh of flat owners in Mumbai and the rest of the state would now be able to ensure the real ownership of their prized property.

Besides speedy registration of their Co-operative Housing Society (CHS), flat-owners can also be assured of a smooth handover of the title of the plot on which their building stands — the process is known as the conveyance deed in legal parlance. In case a builder creates hurdles during the handover, he could face a jail term of six months to one year, says the amendment in the Maharashtra Ownership of Flat Act (MOFA).

As the amendment sought to empower the residential deputy collector as the competent authority for smooth registration of a CHS and conveyance deed, officials from the state co-operation department were against any such provision. They said they were the only rightful carriers of the

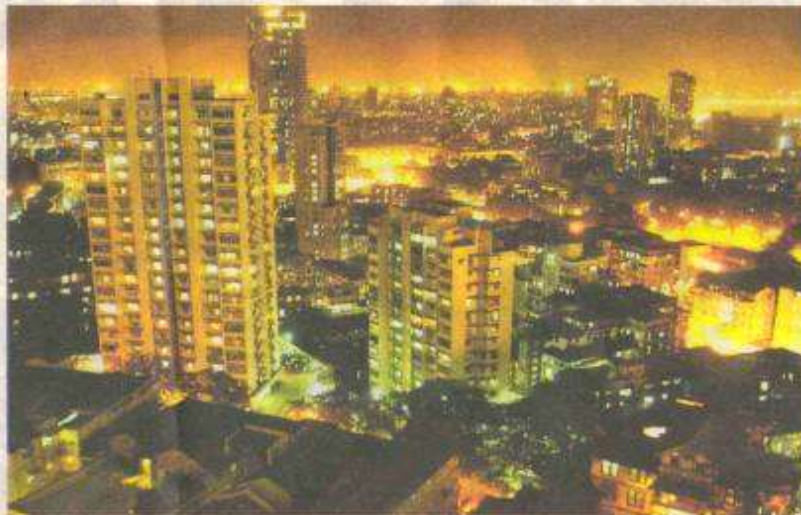


Pratibha Patil

amended law as they are the ones who, at present, monitor the working of CHS.

This was one of the reasons that the amendment, which was approved by the State Assembly in December 2005, was tabled in the State Legislative Council as late as July 2007.

Any CHS, whose registration is being opposed by the builder, can approach the competent authority. The authority, soon to be notified by the government, will be an officer of the rank of district deputy registrar.



In the absence of the builder's approval, the authority will give specific direction to the concerned official for registering the society.

For the conveyance deed,

once a CHS approaches the authority for speedy process, he will issue summons to the builder. After hearing both the sides (builder and the residents), the authority will issue

deemed conveyance deed until the final process gets complete.

Welcoming the President's assent, Shriish Deshpande of Mumbai Gratiak Panchayat (a consumers' body) said it was a

HOW IMPORTANT IS CONVEYANCE DEED?

A building without conveyance deed means the residents owning an apartment in air as they have no ownership rights of the land on which their building stands. They cannot claim their right on the plot. Over the years, thousands of CHS have struggled to get the conveyance deed in their favour. Though amendments to the MOFA were cleared in the monsoon session of the State Legislature last July, the President's assent was awaited. Governor S M Krishna had forwarded the Bill for Patil's assent.

big relief for lakhs of flat-owners who are struggling for the conveyance deed.

In an appeal to the chief minister for offering sufficient infrastructure to the proposed competent authority, Deshpande said the amended provisions should not prove newer pasture for the co-operation department officials some of whom were caught red-handed by the Anti-Corruption Bureau accepting huge sums of money.

DEEMED CONVEYANCE

- 1. AS GOOD AS CONVEYED**
- 2. TREATED AS CONVEYED**
- 3. LEGAL FICTION**
- 4. BUT NOW ACTUALLY TO BE CONVEYED THROUGH COMPETENT AUTHORITY**

DOCUMENTS REQUIRED FOR CONVEYANCE

- 1. Application & COURT FEES**
- 2. Certified documents of land**
- 3. Certified copies of Bldg documents**
- 4. Flats Agreements duly stamped/Regd**
- 5. Applicant Identity-Regn Certificate**

DOCUMENTS REQUIRED FOR CONVEYANCE

- 6. Others relied upon by applicant**
- 7. The Area entitlement by Architect Report**
- 8. Survey no & CTS No. Matching to be done**
- 9. Search Report of the Advocate to be given.**

Have you read something like this ?

RESIDENTS SEND BUILDER TO JAIL

Bhandup builder arrested for cheating after residents file police complaint saying he has failed to provide them basic amenities



1 Usha Complex in Bhandup that the builder left incomplete 2 Residents point to the metre box through which all four wings of the society get electricity at commercial rates 3 Avinash Kane, a resident of Usha Complex, who took on the builder 4 Builder Muktesh Sharma, who got himself admitted to MT Agarwal Hospital complaining of high blood pressure just hours after being remanded to police custody

ABHIT SHARMA

Builders who promise flat buyers the world and then deliver hardly anything else have ruined the lives of many. Residents of a newly constructed complex in Bhandup have won their builder to jail for failing to provide basic amenities even a year after the building complex came up.

The builder, Muktesh Sharma of Stone Sat Constructions that

has constructed Usha Complex on Village Road, Bhandup (W), was arrested on Tuesday and booked under Section 420 (cheating), 404 (criminal breach of trust) and 214 (obscene present when an offence is committed) of the Indian Penal Code.

His wife Vinod and Dinesh Sharma too have been booked under the same sections. Police said they are absconding.

Produced in court on Wednesday, Sharma was sentenced to two

days in police custody but complained of weakness and has since been admitted to MT Agarwal Hospital in Mumbai.

The police action came on a complaint filed by Avinash Kane, a resident of B-Wing of Usha Complex. According to the complainant, the builder had failed to provide power meters and lifts and not even painted the walls despite having taken Rs 60,200 for providing various facilities.

TURN TO PAGE 4

Residents send builder to custody

1 PAGE 1

Rane said he had moved into the building in July last year. At that time, work on the building was not over, Rane said, adding that the builder then promised that everything would be in place soon. However, almost a year had now passed without anything happening, Rane said, so he decided to approach the police.

Booking for the complex that has six wings (A-F) began in 1998. Residents were given possession in phases since 2001, though the work is still incomplete and the BMC has still not granted occupation and completion certificates.

Residents alleged that the builder asked them to take possession of the flats before he could get the necessary certificates. "Sharma threatened us that if we did not take possession of the flats as they were, he would cancel our agreements. We were left with no choice but to come here as we had put in our hard-earned money on the flat," Sudhir Thokal, a resident of A-Wing said.

All residents paid between Rs 60,000-Rs 80,000 in advance, depending on the area of the flat, for amenities. The builder in his agreement said the amenities would include a water and power connection, a compound wall, lifts and a garden with a play area for children.

However, residents alleged that hardly anything was in place now. "The A and C wings do not have a legal water connection. There is absolutely no drainage system in the complex. There is also no compound wall, and A, B, C and D wing get electricity from a common commercial meter. The children's play area is a mound of debris. What's more, the A wing that has 7 floors does not even have a lift, secretary of the proposed Usha Community Co-operative Housing Society, R Padwal, said.

"We have been doing the

HEAR THIS ONE



There is no lift in my wing, which has seven floors. For the first three months after we moved in there were no gates to the lift. It was pity when we told the builder that our children could fall through the gap did he install the gates. There are aged people who have to climb so many floors everyday.

— Sudhir Thokal, resident of A-wing



The building does not even have a compound wall, during the floods the garbage from the adjoining nullah was strewn across the compound. We spent Rs 40,000 only to clean that up and make a temporary drainage system. We've also spent Rs 18,000 on wiring since A, B, C and D-wing had no metre connection. Plus we also have given water connections to A and C-wing.

— R R Padwal, secretary of the ad-hoc housing society

May be a very few cases !

What in case if this happens?

Building collapse kills 14

30-YEAR-OLD STRUCTURE IN BORIVLI TOPPLES, 60 FEARED TRAPPED IN THE DEBRIS

Megha Sood & Proisy Thomas
Mumbai, July 18

AT LEAST 14 people were killed and 18 injured when two wings of a 30-year-old seven-storey residential building in Borivli crumbled on Thursday.

More than 60 people are feared trapped in the debris, though Deputy Chief Minister E.K. Patil told NDTV that figure is closer to 100.

Suburban Collector Vishwas Patil said that some of the people trapped had been contacted as their cellphones and efforts were on to rescue them.

Home to 28 families, the A and B wings of Laxmi Chhaya Building at Sahakar Naka collapsed like a pack of cards at 6.15 pm.

The 24 families living in the third wing have been evacuated.

"The residents had recently installed an additional tank on the terrace of the building and made structural changes for the same,"



DUST TO DUST

Earth movers try to clear the debris of seven-storey Laxmi Chhaya Building in Borivli.

said Municipal Commissioner Jalraj Phatak. "The building may have crumbled due to the pressure of this tank."

Mayor Shubha Inani, however, said that jewellers who owned shops on the ground floor had il-

BUILDING TANKS

City officials said an extra water tank set up on top of the building could have caused it to topple.

legally built a room underground, despite residents' protests, which may have led to the collapse.

Chief Minister Vilasrao Deshmukh has announced compensation of Rs 1 lakh for the kin of

IN NICK OF TIME

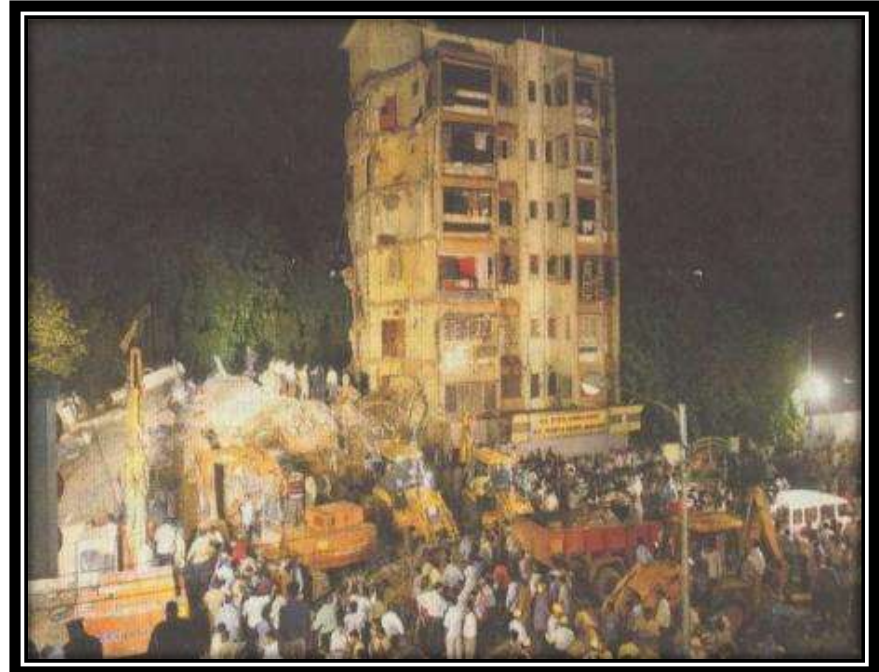
About 18 people have been rescued and sent to nearby Bhagwati Hospital.

those who have died, and Rs 50,000 for those injured.

He has also ordered an inquiry by a magistrate into the collapse.

megha.ood@ndtv.com

▶ FULL REPORT, PAGE 3



Don't wait for a
Situation

Like this to Happen

DOCUMENTS REQUIRED FOR CONVEYANCE

- **Society Reg. Cert : With Society**
- **Stamp Duty & Reg Paid Proof: Each individual**
- **Agreement for Sale : Promoter to Purchaser**
- **Commencement Cert : Municipal Authority**
- **C C / O. C : Concerned Authority to Builder**
- **Approved Building Plan : Municipal Authority**

DOCUMENTS REQUIRED FOR CONVEYANCE

- **7/12 Extract : Tahsildar / Concerned Auth**
- **Form No 6 Mutation Entry : Revenue Office**
- **Search Report / Title Clearance : Advocate**
- **Index II : Sub Registrar of Assurances**
- **Property Card : Thasildar**
- **N A Order : Collector of Districts**
- **Development Agreement : Land Owner to
Builder**

“PROMOTER” MEANS

¹[“promoter” means a person & 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 ²[or apartments] for the purpose of selling some or all of them to other persons or to a company, co-operative 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;

AMENDMENT IN MOFA IN 2008- PURPOSE



- 1. To provide a Competent (Quasi Judicial) Authority in addition to existing Legal Remedies.**
- 2. To order & Implement the remedial steps by Competent Authority in the common interest of flat buyers.**

U/s 5A of MOFA not below the rank of (D D R) Dist. Dy.Registrar of Co-op.Soc. as per Notification Dated. 25-06-08, have been notified to be Competent Authority for their respective Jurisdiction



SCRUTINY OF APPLICATION & NOTICES TO PARTIES

- 1. APPEARANCE & NON APPEARANC**
- 2. PRODUCTION & INSP. OF DOCUMENTS.**
- 3. PARTIES TO FILE RELEVANT DOCUMENTS IN
OF THEIR SAY.**
- 4. On receipt of reply from Opponent/s, the
Applicant to prove his contents and deal with
opponents reply.**

PROCEDURE FOR HEARING

- (5) Opponent may file written say on next date.**
- (6) No cross examination allowed.**
- (7) On receipt of replies, CA may hear oral Arguments of the parties and close the proceedings.**
- (8) Within 6 months after making such enquiries , verifying the authenticity of documents and giving sufficient hearing as per law of natural justice to the parties, pass such order as he deems fit.**

JUDGEMENT, ORDER & CERTIFICATE

**SPEAKING ORDER AND CERTIFICATE THAT
THE APPLICANT CASE IS A FIT CASE ON
GETTING UNILATERAL CONVEYANCE to be issued
by the Competent Authority**

REGN OF DEEMED CONVEYANCE

- **Prepare Deemed Conveyance deed & GET IT EXECUTED BY COMPETENT AUTHORITY.**
- **Send it for adjudication – Stamp Duty**
- **Lodge for Registration with Sub Registrar**
- **Sub Registrar to issue Show Cause Notice to Builder & Landlord & THEN register the Conveyance deed**



CONVEYANCE DEED

Handwritten signature and name: V. K. BISHI

DEED OF CONVEYANCE made at Mumbai this 30th day of MAY in the 2011 Christian year Two Thousand Eleven Between M/S SUNSHINE ENTERPRISES, a partnership firm carrying of business as Builders and Developers and having their office at Room 0.5, Gupta House, 2nd Marine Street, Mumbai 2 (which is the last known address) (which expression shall unless it be repugnant to the context or meaning thereof mean and include its partners or partner for the time being of the said firm the survivor of them and their respective heirs, executors and administrators) hereinafter called "THE OWNERS" of the ONE PART

SIGNED SEALED AND DELIVERED BY THE
Shri S.P. Ghorpade Competent Authority having power
of MOFA 1963, to grant deemed conveyance on
Within named Owners M/s Sunshine Enterprises
in the presence of

Account of
[Signature]

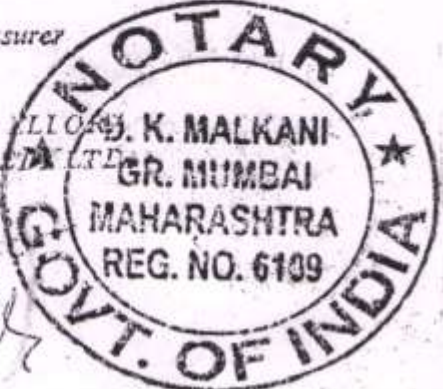


District Deputy Registrar,
Co-operative Societies, Mumbai City (3)
Competent Authority
w/s SA of the MOFA, 1963

THE COMMON SEAL of the Co-operative Societies, Mumbai City (3)
Ellora Co-operative Society Ltd. Hereby
Affixed pursuant to the Resolution)
passed by the Managing Committee on 13th)
day of March 2011 authorising the following)
office bearers to sign & execute the presence)
conveyance deed of the society)
(1) Shri Mukesh Maisuria Chairman)
(2) Shri Arvind Modi – Secretary)
(3) Shri Bharat Gosalia –Managing)
Committee Member)
(4) Shri Kanaiyalal Bhatia- Managing)
Committee Member)
(5) Shri Urmila Kanubhai Joshi –Managing)
Committee Member)
Who have signed for and behalf of the society)
in the presence of)

For DAHISAR AJANTA ELLORA
CO-OP. HOUSING SOCIETY LTD.
[Signature]
Chairman / Secretary / Treasurer
For DAHISAR AJANTA ELLORA
CO-OP. HOUSING SOCIETY LTD.
[Signature]
Chairman / Secretary / Treasurer

For DAHISAR AJANTA ELLORA
CO-OP. HOUSING SOCIETY LTD.
[Signature]
[Signature]



ACTS & RULES APPLICABLE

- **REGISTRATION ACT, 1908 – For registration of Conveyance deed**
- **BOMBAY STAMP ACT, 1958 – For Stamp Duty Verification and calculation**
- **M.C.S. ACT, 1960 - under which society is registered**
- **INCOME TAX ACT, 1961 – To Verify Tax Liabilities of the Vendor**
- **MAH. OWNERSHIP FLATS ACT, 1963- Under which Flats are purchased**

ACTS & RULES APPLICABLE

- **ULC- For verifying any violations under the Act**
- **Criminal Procedure Code / Civil Procedure Code and Consumer Protection Act- For proceeding against the builder**
- **BMC - Development Control Rules, 1991- For Legality of the Building construction.**
- **LAND REVENUE CODE - Where Land Records Order kept**
- **BYE-LAWS: Applicable to all the societies**

DEPARTMENT TO BE VISITED

- **City Survey Office – for Property Card**
- **Collector of Stamps – For Stamp Duty**
- **Sub Registrar – For Registration of Copy**
- **Assessment Dept– For Change in the Prop. Tax Bill**
- **Collector office : For N.A. Order**
- **Revenue Dept : ULC order**
- **Many more dept on case to case basis**

**COMPLETION CERTIFICATE/ OC NOT REQD FOR DEEMED
CONVEYANCE :**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4943 OF 2013**

**M/s. S. D. Darekar Developers
and Builders, through Partner,
Satish Dagdu Darekar & Ors.Petitioners.**

Versus

**The Competent Authority and
the District Deputy Registrar and Anr. ...Respondents.
Mr. Siddhartha R. Ronghe, advocate for the Petitioner.**

CORAM : RANJIT MORE, J.

DATED : August 29, 2013.

It is the specific contention of the petitioner before this Court and the Competent Authority that, they are ready and willing to convey property in favour of respondent no.2/society but this **was not done for want of completion certificate.**

Petitioner in all constructed 46 flats and 18 shops along with four parking spaces, which were sold to various persons. Respondent no.2/Society along with proposal annexed Index-2 extracts of the purchasers of 36 flats situated in the said building.

In these circumstances, it is the petitioner's obligation to execute conveyance in favour of respondent no.2/Society, which is formed by the purchasers of said flats.

In the above facts and circumstances, I am not inclined to interfere with the impugned order in writ jurisdiction of this Court under Article 227 of the Constitution of India.

The Petition is, therefore, dismissed.
(RANJIT MORE, J.)

**CASE IN CONSUMER COURT PENDING- STILL YOU
CAN APPLY FOR DEEMED CONVEYANCE.**

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY**

**CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5107 OF 2013**

**The Deonar Avanti Coop
Hsg Scty Ltd. ...Petitioners**

Vs.

**The State of Maharashtra & Ors
...Respondents**

1. The Petitioner is a Cooperative Housing Society which has applied for deemed conveyance under Section 11(1) of the Maharashtra Ownership of Flats Act, 1963.

2. The District Deputy Registrar vide letter dated: 19.1.2013 has informed the Petitioner Society that though the matter regarding deemed conveyance is closed for orders ,he cannot presently pass orders in view of the fact that case No.352 of 2011 filed by the Respondent No.3 herein is pending before the Consumer Court

3. Since the proceedings before the District Deputy Registrar are one under Section 11(1) of the MOFA, 1961, the District Deputy Registrar to pass an order on the application in accordance with law dealing with the contentions raised by the parties.

4. Needless to state that the letter dated 19.1.2013 would not come either in the way of the Petitioner Society or the other parties at the hearing of the said application.

5. The District Deputy Registrar to pass appropriate orders in accordance with law by 30.4.2014. With the aforesaid directions, the Writ Petition is disposed of.

**DEEMED CONVEYANCE IS POSSIBLE, EVEN IF
THERE IS BALANCE FSI.**

**IN THE HIGH COURT OF JUDICATURE AT
BOMBAY**

**CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7114 OF 2013**

**M/s. Bipin Construction Company
and Ors. :Petitioners**

versus

State of Maharashtra and Ors. :Respondents

The two fold contentions raised on behalf of the Petitioner have been dealt with by the Competent Authority, namely,

(A) that a joint application for conveyance in respect of two owners could not be filed and

(B) that there is balance FSI. For the reasons mentioned in the impugned order, the said contentions have been rejected.

In my view, considering the said reasons as also considering the fact that the Society has been

registered in the year 1979 and has been awaiting for conveyance ever since then, the order passed by the Competent Authority having regard to the provisions of Section 10 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 cannot be taken exception to.

No case for interference in the writ jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

(R. M. SAVANT, J.)

Disputes raised of open space between the two buildings and FSI thereupon- Still Deemed Conveyance upheld:

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2429 OF 2013***

Suleman Abdul Razzak Nishandar .. Petitioner

Vs.

The State of Maharashtra & Ors. .. Respondents

The learned Counsel for the Petitioner submitted that there is a dispute between the developer and the society as regards the area to be conveyed to the Society and more particularly as regards the open space between the two buildings and FSI thereupon.

4. The Competent authority has considered the said submission. The Competent authority came to the conclusion that the Petitioner did not complete his obligations under Section 3(2)m & Section 4(1A)(6) Section 4(2) of the Act. The Competent authority held that the Petitioner-developer was under obligation to finalize the building plans as well as specify the open area before selling the flats..

The Competent authority held that since in the plan the open area has been designated as the common area, the Petitioner at this stage cannot raise a dispute and stall the conveyance in favor of Respondent No.3.

There is no perversity in this finding. The Petitioner was under the mandate to perform his obligations under the Act and having failed to do so, he cannot oppose the registration of the Society and oppose the conveyance in favor of the society. The Competent authority has kept the issue as regards the right to the open area to be agitated before the appropriate forum. In view thereof, no interference is warranted in the impugned order.

5. Writ Petition is accordingly rejected.

Presented By :

**Naresh Pai, Advocates High Court, Legal Advisors &
consultants**

Email:- nareshp.pacpl@gmail.com