



**REGISTRATION OF COOPERATIVE  
Society & CHS  
&  
BIFURCATION OF COOP HSG  
SOCIETY**

By  
CA. Ramesh Prabhu



# TYPES OF SOCIETIES

**2[1]. AGRICULTURAL MARKETING SOCIETY**

**2[9]. CONSUMER SOCIETY**

**2[10]. CO-OPERATIVE BANK**

**2[6]. CENTRAL BANK**

**2[10-A] CROP PROTECTION SOCIETY**

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# TYPES OF SOCIETIES

**2(22) PROCESSING SOCIETY**

**2(23) PRODUCERS SOCIETY**

**2(25) RESOURCE SOCIETY**

**2(2) APEX SOCIETY**



**REGISTRATION**

**of**

**CO-OPERATIVE SOCIETIES**

*Presented by*

**Ramesh S. Prabhu**

**Chartered Accountant**



# REGISTRATION

- \* **JURISDICTION**
- \* **SOCIETIES WHICH MAY BE REGISTERED**
- \* **REGISTRATION WITH LIMITED OR UNLIMITED LAIBILITY**
- \* **CONDITIONS OF REGISTRATION**

# REGISTRATION

- \* **POWER TO EXEMPT SOCIETIES OR CLASS OF SOCIETIES FROM CONDITIONS AS TO REGISTRATION**
- \* **APPLICATION FOR REGISTRATION**
- \* **REGISTRATION**
- \* **EVIDENCE OF REGISTRATION**

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# REGISTRATION OF SOCIETY

1. APPOINTMENT OF CHIEF PROMOTER
2. NAME RESERVATION
3. BANK ACCOUNT AND DEPOSITS
4. REGISTRATION FEE



**समाज**

# **REGISTRATION OF SOCIETY**

**5. REGISTRATION PROPOSAL**

**6. REGISTRATION PROCEDURE**

**7. REFUSAL OF REGISTRATION**

**8. APPEALS**

# **Refusal Of Registration And Right Of Appeal.**

**Registrar can refuse to register the Society if the Registering Authority feels that:**

- i. The chief promoter has not complied with the provisions in the Act or The rules**
- ii. The objectives are contrary to the policy directives issued by the State Govt, or**
- iii. The proposed society may have adverse effect on the development of Co-operative movement.**

# Deemed Registration

**The society shall be deemed to be registered if:**

- i. If the registration proposal is not finally disposed off within 4.5 months, [2 months + 15 days + 2 months] the society and its byelaws are deemed to be registered.**
- ii. Registering Authority will have to issue registration certificate & registered byelaws with his seal & signature within a period of 15 days.**

## SEC. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

- (1) A society may, with the previous approval of the registrar, by resolution passed by two-thirds majority of the members present and voting at a special general meeting held for the purpose, decide-
- (2) (a) To amalgamate with another society;
- (b) To transfer its assets and liabilities, in whole or in part, (to any other society;
- (c) To divide itself into two or more societies; or -
- (d) To convert itself into another class of society:

Provided that, when such amalgamation, transfer, division or conversion, aforesaid, involves a transfer of

## SEC. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

the liabilities of a society to any other society, no order on the resolution shall be passed by the Registrar, unless he is satisfied that –

- (i) the society, after passing such resolution, has given notice thereof in such manner as may be prescribed to all its members, creditors and other persons whose interests are likely to be affected (hereinafter, in this section referred to as "other interested persons"), giving them the option, to be exercised within one month from the date of such notice, of becoming members of any of the new

## SEC. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

societies, or continuing their membership in the amalgamated or converted society, or demanding payment of their share or interest or dues, as the case may be,

(ii) all the members and creditors and other interested persons, have assented to the decision, or deemed to have assented thereto by virtue of any member or creditor or any other interested person failing to exercise his option within the period specified in clause (i) aforesaid, and

## SEC. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

(iii) All claims of members and creditors and other interested persons, who exercise the option within the period specified, have been met in full or otherwise satisfied.

(2) Notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian registration Act, 1908, in the event of division or conversion, the registration of the new societies or, as the case may be, of the converted society, and in the event of amalgamation, on the amalgamation the resolution of the societies concerned with amalgamation, shall in each case be sufficient conveyance to vest the assets and liabilities of



## **SEC. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES**

the original society or amalgamating societies in the new societies or converted or amalgamated society, as the case may be.

(3) The amalgamation of societies, or division or conversion of a society shall not affect any rights or obligation of the societies so amalgamated, or society so divided or converted, or render defective any legal proceedings which might have been continued or commenced by or against the societies which have been amalgamated, or divided or converted; and accordingly, such legal proceedings may be continued or commenced by or against the amalgamated society, or, as the case



## SEC. 17. AMALGAMATION, TRANSFER, DIVISION OR CONVERSION OF SOCIETIES

may be, the converted society, or the new societies.

(4) Where two or more societies have been amalgamated, or a society has been divided or converted, the registration of such societies or society shall be cancelled on the date of registration of the amalgamated society, or the converted society, or the new societies between which the society may have been divided.

Provided further that, in case of societies doing the banking business, no such amalgamation, transfer, division or conversion shall be initiated without the prior approval of the Reserve Bank of India.

**SEC. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN THE PUBLIC INTEREST, OR IN THE INTEREST OF MEMBERS, ETC:**

(1) Where the Registrar is satisfied that it is essential in the public interest or in the interest of members of such societies or in the interest of the co-operative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganized then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the state government by order notified in the official gazette provide for the

## **SEC. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN THE PUBLIC INTEREST, OR IN THE INTEREST OF MEMBERS, ETC:**

amalgamation, division or reorganization of those societies into a single society, or into societies with such constitution, property rights, interests and authorities, and such liabilities, duties and obligations as may be specified in the order.

Provided that, such notified State federal society shall communicate its opinion to the Registrar within a period of thirty days from the date of receipt of communication, failing which it shall be presumed that such State federal society has no objection to the amalgamation, division or reorganization and the Registrar shall be at liberty to proceed further to take action accordingly.

**SEC. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN THE PUBLIC INTEREST, OR IN THE INTEREST OF MEMBERS, ETC:**

(2) No order shall be made under this section, unless-

(3) (a) A copy of the proposed order has been sent in draft to the society or each of the societies concerned;

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as aforesaid was received by the society) as the

**SEC. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN THE PUBLIC INTEREST, OR IN THE INTEREST OF MEMBERS, ETC:**

Registrar may fix in that behalf, either from the society or from any member or class of members thereof, or from any creditor or class of creditors.

(3) The order referred to in sub-section (1), may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, the division or reorganization.

**SEC. 18. POWER TO DIRECT AMALGAMATION, DIVISION AND REORGANIZATION IN THE PUBLIC INTEREST, OR IN THE INTEREST OF MEMBERS, ETC:**

(4) Every member or creditor of or other person interested in, each of the societies to be amalgamated, divided or reorganized who has objected to the scheme of amalgamation, division or reorganization, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or re-organization his share or interest if he be a member and the amount in satisfaction of his dues if he be a creditor.

(5) On the issue of an order under sub-section (1), the provisions in sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or

**SEC. 18. POWER TO DIRECT AMALGAMATION,  
DIVISION AND REORGANIZATION IN THE PUBLIC  
INTEREST, OR IN THE INTEREST OF MEMBERS, ETC:**

re-organized as if they were amalgamated, divided or reorganized under that section, A and to the society amalgamated, divided or reorganized.

(6) Nothing contained, in this section shall apply for the amalgamation of two or more co-operative banks or two or more primary agricultural credit societies.



## **21. CANCELLATION OF REGISTRATION: Grounds:**

**1. Transfer of whole assets and liabilities, or**

**2. Amalgamation with another society, or**

**3. Division into two or more societies, or**

**4. If business/affairs are wound up, or**





## **21. CANCELLATION OF REGISTRATION: Grounds:**

**5. De-registered, or**

**6. wound up.**



## **21A. DE-REGISTRATION OF SOCIETIES:**

**1. Registration on misrepresentation, or**

**2. work of the society is completed or exhausted, or**

**3. the purposes for which society was registered are not served.**

**4. opportunity of being heard to Chief Promoter/MC/Members.**

## **21A. DE-REGISTRATION OF SOCIETIES:**

**5. Appointment of Official Assignee.**

**6. Realisation of Assets/liquidation of Liabilities within 1 year. Extension from time to time - not to exceed 3 years in aggregate.**

**7. Powers to Joint Registrar and higher officers.**

# **ADOPTION OF NEW BYE-LAWS:**

- **Procedure as laid down in the section 13 of the Act is as under:**
- **A General Meeting of members to discuss and decide on adoption of New Model Bye-laws shall be called giving 14 days clear notice.**
- **Resolution to adopt New Model Bye-laws shall be approved by 2/3 Majority of the members present in the meeting.**
- **Within 2 months of the General Meeting in which adoption resolution is passed, the proposal of adoption is required to be submitted to the Registering Authority along with following documents:**

# **ADOPTION OF NEW BYE-LAWS:**

- a) 4 copies of the Model Bye-laws adopted, dully filled in and signed at the required places.**
- b) A certified copy of existing registered Bye-laws.**
- c) All enclosures dully filled and signed under society stamp/seal.**
- d) Applicable Adhesive non-judicial stamp affixed on covering letter.**
- e) Copy of the Resolution passed to adopt new Bye-Laws**

# TYPES OF SOCIETIES

- Consumer societies
- Co-operative Bank
- Credit societies
- Crop Protection Societies
- Producer's Societies
- Housing Societies
- General Societies
- Farming Societies



# Types of Housing Societies

- Flat Owners Societies
- Open Plot Societies
- Tenant Societies
- Housing Board Society
- Premises society





# Objective of a Housing Society

- To Obtain Conveyance as per provisions of MOFA 1963
- To manage, maintain and administer the property of the society.
- To raise funds for achieving the objects
- To undertake social, cultural or recreative activities.
- To do such other things to attain the objects of the society.



# Registration of Society ....

- Sec 4. Societies may be registered
- Sec 5. liability to be Limited / Unlimited
- Sec 6. Conditions of Registration
- Sec 8. Application of Registration.
- Sec 9. Registration.
- Sec 11. Power of Registrar to decide certain questions.

# FORMATION OF A CHS



*With the Co-operation of the Builder*




## **Procedure for Registration of a Housing Society**

- Appointment of Chief Promoter.
- Name reservation of the society.
- Opening of Bank Account – Deposit of Share Money and entrance fees.
- Payment of Registration fees of Rs. 2500.
- Putting up the proposal for Registration





# Documents required for Registration Proposal

- Application for Registration – Form “A”
  - Four copies of the model by-laws of the society
  - Signatures of minimum 60% of the total promoters along with their agreement registration receipt
  - Copy of full agreement of the chief promoter
  - List of promoter members such as name, age, occupation, address
  - Balance certificate from bank for deposit of share money and entrance fees of promoter members.
- 

# FORMATION OF A CHS



*With out the Co-operation of the Builder*

Governed by Maharashtra  
Ownership Flats Act, 1963



# **M O F A, 1963**

- **Construction Boom in the 60's**
- **Flat Purchasers were unprotected**
- **Builders took full advantage**
- **Many irregularities surfaced**
- **Govt. implement an Act in 1963**
- **Known as M O F A, 1963**



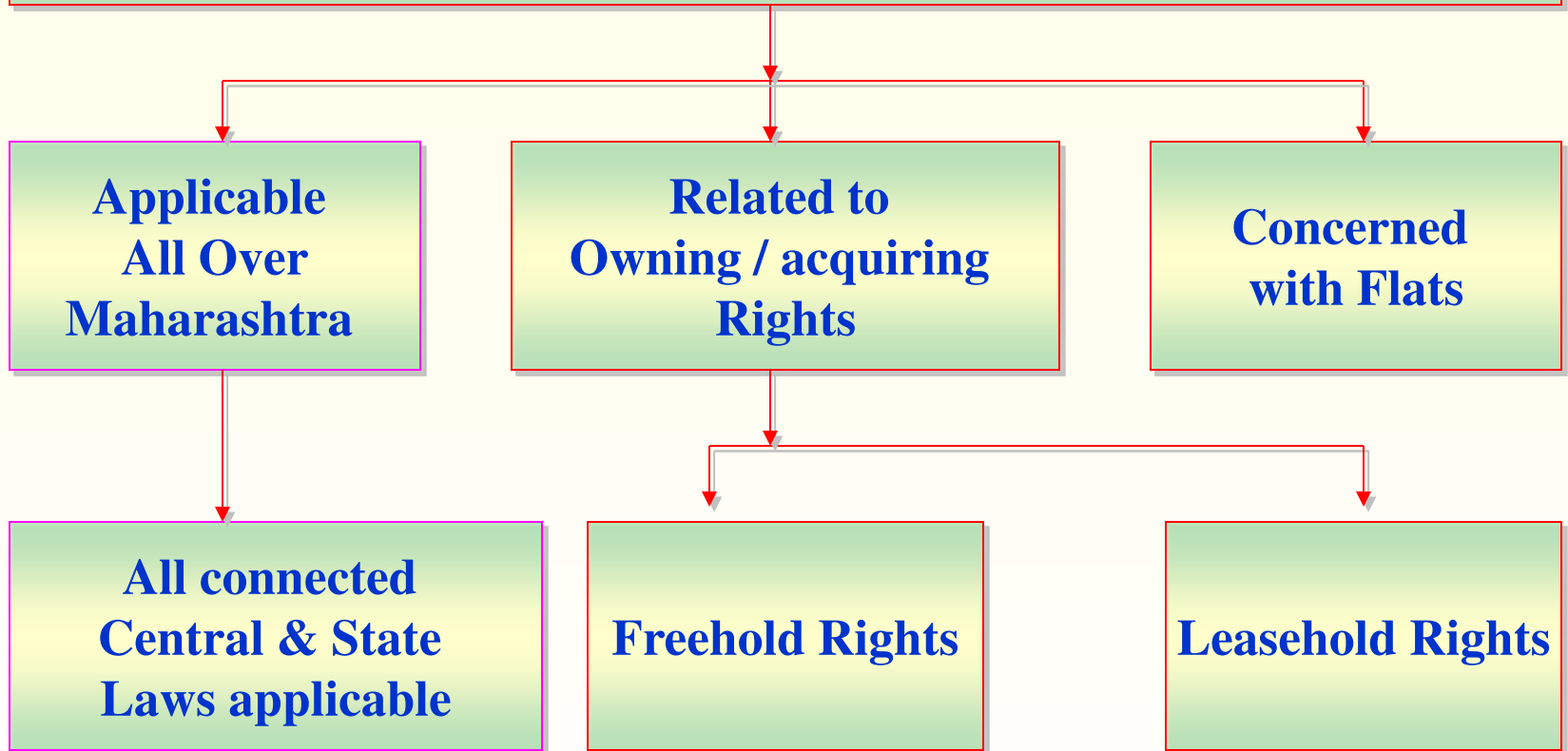
# Under M O F A, 1963

- **Flat Owners get Statutory Rights**
- **Can demand Building relevant papers**
- **Get the Agreement Registered**
- **Agreement in Specific Format**
- **Maintain property till society formed**



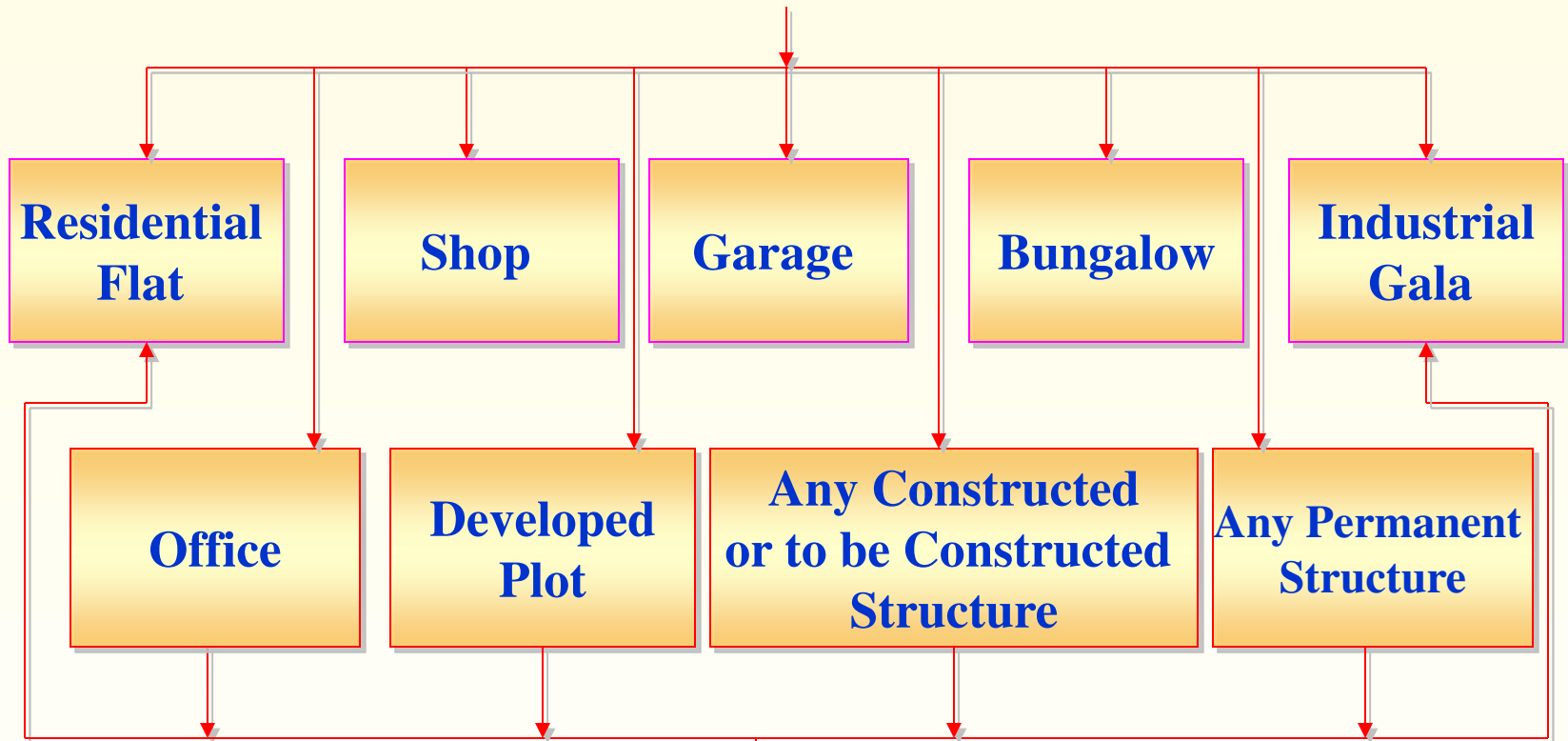
# MOTHER OF FLAT ACT

## MAHARASHTRA OWNERSHIP FLAT ACT, 1963



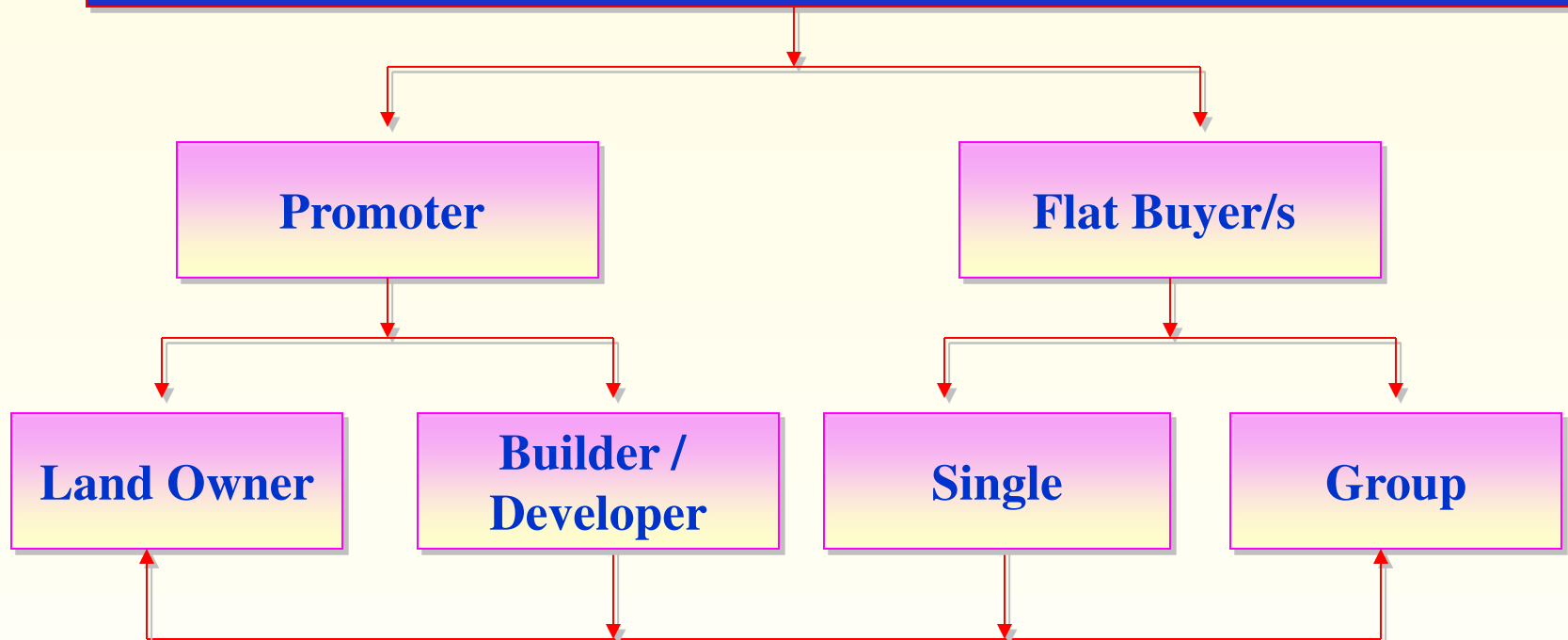


## 4) MOFA : INDEPENDENT UNITS



**Provided or agreed to be provided by the Promoter  
To the Purchaser for a Consideration**

# PARTIES ON WHOM OBLIGATIONS ARE MADE APPLICABLE



1. Individual, 2. Firm. 3. Company, 4. Assn of Persons,
5. Govt., 6. Semi Govt. 8. Local Authority 9. Trust
10. Society – u/SRA,1860 11. Co-operative Society u/ MCS A of 1960
12. LLP or any other person or group of persons.

# OBLIGATION OF THE BUILDER

## Contractual Obligations

1. Enter into Agreement
2. Registration of Agreement
3. Receive the Flat Consideration
4. Hand over the Possession of flat as agreed

## Statutory Obligations

1. Register Agent on Receipt of 20%
2. Complete the Building in all respect
3. Provide O.C., B.C.C.
4. Provide Common Facilities
5. Water Connection
6. Electric connection
7. Disclose the information
8. Provide all Documents
9. Registration of Society / Legal Body
10. Providing Conveyance

**U/S11. TO CONVEY LAND AND BUILDING TO THE LEGAL ENTITY WITHIN PRESCRIBED TIME & DELIVER RELEVANT DOCUMENTS.**

**Legal Remedies  
Existing till 2005**

**Quasi Judicial 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**

# REMEDIES WITH COMPETENT AUTHORITY

FOR VIOLATION OF STATUTORY OBLIGATIONS BY THE PROMOTER FOR THE COMMON BENEFIT OF FLAT BUYERS

U/s.5.  
Disclosure of  
Information  
of Money  
Collected  
for a Particular  
Purpose

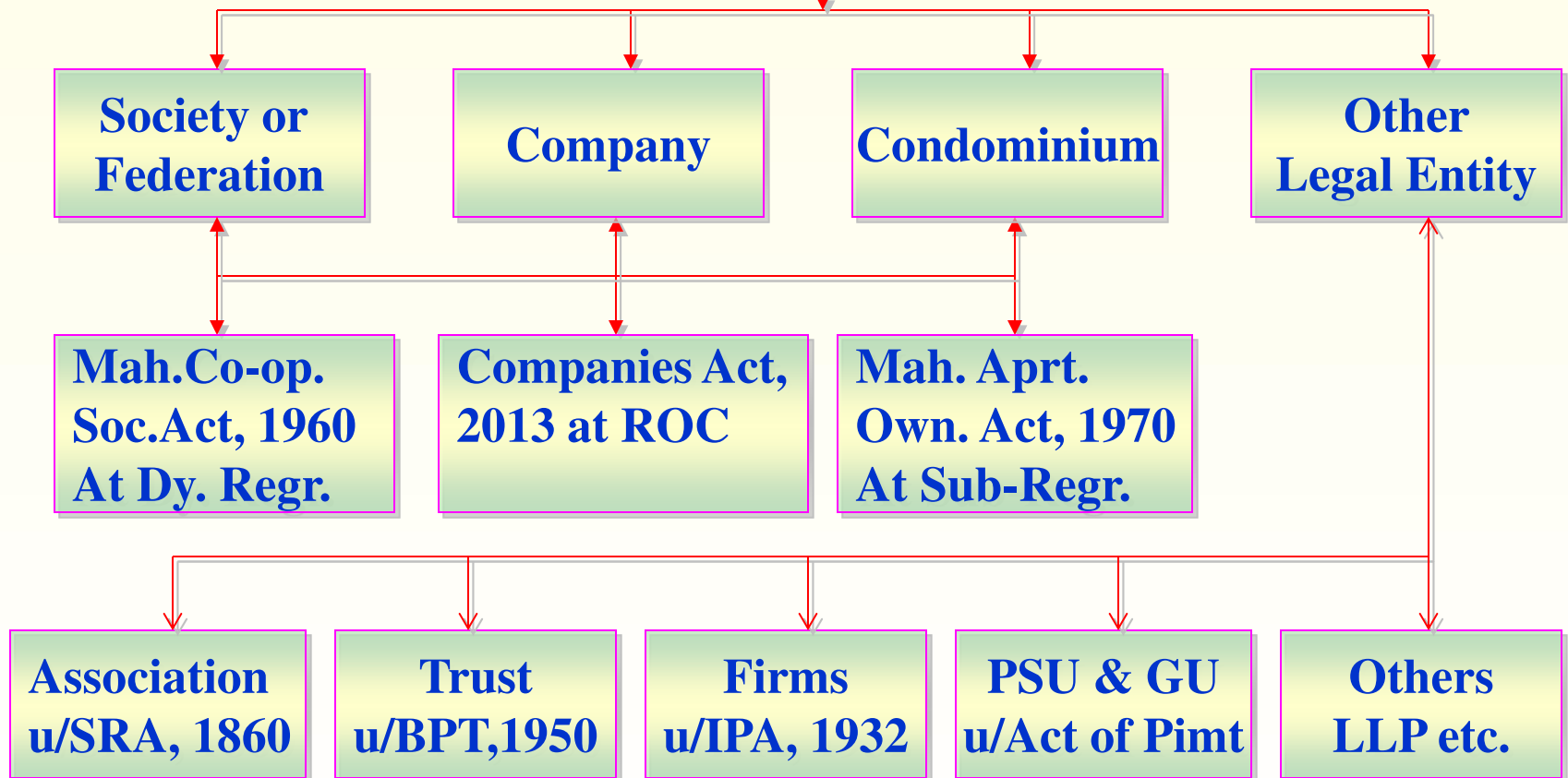
U/s.10.  
Formation of  
Legal entity to  
Manage  
Common  
Services,  
Area & Facilities  
after  
Disposing  
60% units

U/s11.  
To Convey  
Land  
and Building  
to the Legal  
Entity  
within 4  
months & Deliver  
Documents.

U/s 13(4) & 13(5)  
To Inform  
Local Authority  
to Debar The  
Promoter from  
Construction  
Activity for  
next 5 years  
on conviction  
by court on  
MOFA violation.

# U/S.10. FORMATION OF LEGAL ENTITY . (MOFA-MOTHER OF FLATS ACT)

TO MANAGE COMMON SERVICES,  
AREA & FACILITIES AFTER DISPOSING 60% UNITS BY PROMOTERS



**U/S11. TO CONVEY LAND AND BUILDING TO THE LEGAL ENTITY WITHIN PRESCRIBED TIME & DELIVER RELEVANT DOCUMENTS.**

**Legal Remedies  
Existing till 2005**

**Quasi Judicial Authority as per  
MOFA-Amendment-2005**

**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 required to implement the functioning of Competent Authority and MOF (Amendment) Rules, 2009 notified**





## **11) 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**

- (a) Give the Acknowledgement to Applications and register in register**
- (b) Application to be incomplete, send the notice for compliance as per form No. VI**
- (c) CA to issue notice for hearing within 15 days of registering the application**
- (d) Notice to be served registered post, Acknowledgement due.**
- (e) CA to issue public notice inviting claims, objections in local news papers having wide circulation, if the notice is not served on the builders/ opponents**

## APPEARANCE & NON APPEARANCE

- (a) On Apt. Date –Opp. To appear In person or Auth.Rep. File Reply. Adjournment not to exceed 15 days in the first instance.**
- (b) Only Appl Appears, CA to satisfy that notice is served on Opponents and Appl to justify prayers on next Date and Decide the case ex-parte.  
If Opponent shows sufficient cause for non-appearance, hear his say in the matter.**
- (c) On hearing date, if applicant is absent, the CA may hear the opponent and decide the matter as per merit.**
- (d) On hearing date, the Opponent is absent, the CA may decide the matter after hearing the applicant.**

## PRODUCTION & INSP. OF DOCUMENTS

- (a) Parties to file relevant documents in support of their say. If CA is satisfied, that reqd. documents is with other party, CA may direct the concerned party to produce the same. The Appl. to file written say before demanding such documents.
- (b) The party ordered, fails to produce, CA may draw adverse inference against such party and original Appl hearing will continue.
- (c) **CA is satisfied documents cannot be brought, CA may order to take inspection of such documents at site within 7 days.**
- (d) If CA is satisfied, on the basis of new documents, the opponent has to give a written statement, the same may be allowed.



# PROCEDURE FOR HEARING

- (a) On receipt of reply from Opponent/s, the Applicant to prove his contents and deal with opponents reply.**  
**Opponent may file written say on next date. No cross examination allowed.**
- (b) On receipt of replies, CA may hear oral Arguments of the parties and close the proceedings.**
- (c) 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 & DIRECTION**

## **SPEAKING ORDER AND DIRECTION TO DEPUTY REGISTRAR/ ASSISTANT REGISTRAR TO:**

- (1) Register the Society or**
- (2) Reject the Application .**



# Disclaimer

The above views or presentation do not and shall not be considered as a professional advice or WIRC or my firm. The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one shall act on such information without appropriate professional advice after a thorough examination of the particular situation or circumstances.

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# Co-op Enterprises & Co-op Stakeholders



**Let us be Partner in Nation Building**

**CA.Ramesh S. Prabhu, FCA, CISA(USA)**

