

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13181 OF 2025

Kuber Kartik New Link Road Premises
Co-operative Society Limited, a society
registered under the provisions of
Maharashtra Co-operative Societies
Act, 1960 under Registration No.
MUM/WKW/GNL/O2567/2014-15 dated
17/10/2014 having its office at CTA No. 628
to 632, New Link Road, Andheri West,
Mumbai – 400 053.

...Petitioner

Versus

1. Sri Krishna Premises Co-operative Society
Limited, a Co-operative society registered
under the Co-operative Societies Act,
1960 under Registration No. MUM/WKW/
GNL/0/2484/2013-14 dated 13/05/2013
having address at Plot No. D-6, CTS No.
628, 629, 630, 632 and 633 village
Oshiwara, Taluka Andheri New Link
Road, opp. Laxmi Industrial Estate,
Andheri West, Mumbai – 400 053.
2. Mrs. Sangeeta Ramchand Sadhwani
81-A, Maker Towers, Cuffe Parade,
Mumbai – 400 005.
3. District Deputy Registrar,
Co-operative Societies Mumbai City (3)
Competent Authority, MHADA Building,
Ground Floor, Room No. 69,
Bandra East, Mumbai – 400 051.

...Respondents

Mr. Vishal Kanade a/w Ms Vishaki Bhatia, for the Petitioner.
Smt. Savina Crasto, AGP for the Respondent - State.
Mr. Amogh Singh i/b Mr. Shadab Khan, for Respondent No.1.

CORAM : N. J. JAMADAR, J.
RESERVED ON : 15th DECEMBER 2025
PRONOUNCED ON : 07th MARCH 2026

JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of learned Counsel for the parties, heard finally.

2. By this petition under Article 227 of the Constitution of India, the petitioner takes exception to an order dated 15th May, 2025 passed by the Deputy Registrar, Co-operative Societies and Competent Authority (R-3), issuing a corrigendum to an order dated 29th November, 2021 passed by the Competent Authority (R-3) granting a certificate of unilateral deemed conveyance under Section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 ("the MOFA, 1963), and thereby correcting the area of the land to be conveyed to Respondent No. 1 from 1508.00 sq. mtrs., out of CTS No. 633 to 4098.81 sq. mtrs., plus proportionate undivided rights in RG area admeasuring 583.28 sq. mtrs., aggregating to 4682.09 sq. mtrs. and FSI advantage of DP Road admeasuring 24.61 Sq. mtrs., out of the properties

bearing CTS Nos. 628, 629, 630, 631, 632 and 633 of village Oshiwara, Andheri (West), Mumbai ('the subject premises').

3. The Respondent No. 2 was the owner of the plot of land bearing CTS No. 633. The Respondent No. 2 constructed a commercial building known as 'Shri Krishna' on an area admeasuring 1508.00 sq. mtrs., out of the said plot. The Respondent No. 2 entered into an agreement with the purchasers to sell the commercial units in the said building. Eventually, the unit purchasers formed a co-operative society namely, 'Shri Krishna Premises Co-operative Society Limited' (R-1).

4. As the Respondent No. 2 committed default in discharge of her obligations under the MOFA, 1963, the Respondent No. 1 filed an application, being Application No. 18/2021, before the Competent Authority (R-3) for grant of a certificate of unilateral deemed conveyance. By an order dated 29th November, 2021, the Competent Authority directed the grant of a certificate of unilateral deemed conveyance under Section 11(3) of the MOFA, 1963 in favour of the Respondent No. 1 – Society in respect of an

area admeasuring 1508.00 sq. mtrs., plot No. D-6 out of CTS No. 633 in favour of the Respondent No. 1. Pursuant to the said certificate, an instrument of unilateral deemed conveyance came to be registered in favour of the Respondent No. 1. In due course, the name of the Respondent No. 1 came to be mutated to the property card of CTS No. 633.

5. In the same layout, the Respondent No. 2 had also constructed two buildings namely, Kuber and Kartik, apart from "Shri Krishna". The apartment owners in Kuber and Kartik formed a co-operative society, namely 'Kuber Kartik New Link Road Premises Co-operative Society Limited' - the petitioner.

6. The Respondent No. 1 filed an application being Application No. 18/2021, purportedly for rectification of the order granting certificate of unilateral deemed conveyance dated 29th November, 2021. It was, *inter alia*, asserted that, there were various discrepancies in the original application on which the order of unilateral deemed conveyance was passed. The property details like CTS numbers and area were incorrectly mentioned.

Resultantly, an order for deemed conveyance in respect of a lesser area than the actual area to which the Respondent No. 1 was entitled to, was passed. Reference was made to the fact that, the petitioner had applied for the grant of certificate of unilateral deemed conveyance vide Application No. 212/2024 for an area admeasuring 10148.92 sq. mtrs., though its actual entitlement as per the sanctioned building plan was 5823.79 sq. mtrs., only. Thus, banking upon the building plan sanctioned by the Municipal Corporation, Respondent No. 1 prayed for rectification of the area. An architect's certificate was annexed to the said application.

7. The Respondent No. 2 – promoter did not object to the prayer of the Respondent No.1. The petitioner contested the application, *inter alia*, on the ground that, the Competent Authority had no power to review its own order. The entitlement of the Respondent No. 1 to the larger area was also questioned.

8. By the impugned order, the Competent Authority was persuaded to allow the application observing that, as the buildings of the two societies form part of the same layout,

the provisions contained in the Government Resolution dated 22nd June 2018 were attracted. If considered in the light of the guidelines in the said G.R. and the approved building plan, it appeared that, the area granted to the Respondent No. 1 was less than its entitlement. The Competent Authority was of the view that, in view of the judgment of this Court in the case of *Kashish Park Realty Pvt. Ltd. & Anr. Vs. State of Maharashtra & Ors¹*, the Competent Authority had the absolute power to rectify the errors apparent on the face of record, and such rectification would not amount to review of the original order. Holding thus, the Competent Authority proceeded to rectify the certificate so as to enhance the area.

9. It would be contextually relevant to note that, pursuant to the impugned order, a deed of rectification of conveyance came to be executed on 31st July 2025 and the consequent mutation entry also came to be certified. The petitioner has thus sought the relief of quashing and setting aside the impugned order as well as the deed of rectification of conveyance and the certification of the mutation entry in respect of the enhanced area.

1 WP(st)/93044/2020 +

10. I have heard Mr. Vishal Kanade, the learned Counsel for the petitioner, and Mr. Amogh Singh, the learned counsel for the Respondent No. 1, and Ms. Savina Crasto, the learned AGP for the Respondent – State at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record, especially, the order granting certificate of unilateral deemed conveyance and the impugned order.

11. Mr. Kanade the learned Counsel for the petitioner submitted that, the case at hand is a clear case of transgression of jurisdictional limits by the Competent Authority. Mr. Kanade would urge, what accentuates the situation is the fact that a specific objection was raised and binding precedents were brought to the notice of the Competent Authority, to the effect that the Competent Authority has no power to review its own order and, yet, the Competent Authority proceeded to pass the impugned order by completely misconstruing the ratio of the decision of this Court in the case of *Kashish Park Realty Pvt. Ltd. (supra)* and wrongly assumed unto itself absolute power to review the order.

12. Mr. Kanade would urge that, it is well-nigh settled that, a Court or Authority cannot review its own order unless the power is specifically conferred. Review jurisdiction cannot be exercised as an inherent power. In the absence of specific power, no Court or Authority can exercise the review jurisdiction, especially that of a substantive review. Mr. Kanade would submit that, the issue stands covered by a judgment of this Court in the case of *Shri Shivam Co-operative Housing Society Ltd. Vs. Vileparle Co-operative Housing Society Ltd. & Ors²*.

13. Mr. Amogh Singh, the learned Counsel for the Respondent No. 1 boldly submitted that, there can be no quarrel with the proposition that, an Authority cannot exercise the power of review, unless the said power is statutorily conferred. However, in the facts of the case at hand, the said principle is not attracted.

14. Amplifying the aforesaid submission, Mr. Singh would urge that, it is settled by a catena of decisions that when more than one society form part of one layout, the certificate of unilateral deemed conveyance is required to

be granted in accordance with the sanctioned plan. In the case at hand, when the first order was passed, the Competent Authority has granted the certificate of unilateral deemed conveyance on the basis of the area shown in the property card only, without examining the sanctioned plan. The Competent Authority was thus within its rights in correcting the patent error in the order dated 29th November, 2021.

15. Inviting the attention of the Court to the architect's certificate, Mr. Singh would urge, the impugned order is in absolute conformity with the settled principle of law and the guidelines in the GR dated 22th June 2018, in the matter of grant of certificate of unilateral deemed conveyance, where more than one society form part of the same layout. To this end, Mr. Singh placed reliance on the judgments of this Court in the cases of *Veer Tower Co-operative Society Limited Vs. District Deputy Registrar, Co-operative Societies & Ors.*³, and *Swastik Promoters and Developers & Ors., Vs. The Competent Authority, District Deputy Registrar of Co-operative Societies & Anr*⁴.

3 2025 SCC OnLine Bom 324

4 2025 SCC OnLine Bom 256

16. As a second limb of the submission, Mr. Singh would urge that, the petitioner has not assailed the legality and validity of the order dated 15th May, 2025 whereby a certificate of unilateral deemed conveyance was granted in favour of the petitioner to the extent of 6974.83 sq. mtrs. and FSI advantage of the DP road admeasuring 24.57 sq. mtrs., only. The impugned order as well as the said order granting certificate of unilateral deemed conveyance in favour of the petitioner, form part of one composite disposition by the Competent Authority. If the petitioner is not aggrieved by the said order granting the certificate of unilateral deemed conveyance in favour of the petitioner, the petitioner cannot have any grievance in respect of the impugned order.

17. At any rate, Mr. Singh would urge, by the impugned order, the Competent Authority has ensured substantial justice. Where substantial justice is achieved, a writ court need not interfere. To buttress this submission, Mr. Singh placed reliance on an order passed by this Court in the case of *Jaywant Ramchandra Keni Vs. The Competent*

*Authority District Deputy Registrar Co-operative Societies*⁵, wherein a challenge to the issue of corrigendum was repelled by this Court.

18. In the wake of the aforesaid facts, which have been noted rather elaborately, and the rival submissions canvassed across the Bar, the pivotal questions that come to the fore are:

- i) Whether the exercise undertaken by the Competent Authority was in the nature of substantive review or exercise of inherent jurisdiction to correct a glaring procedural defect or jurisdictional infirmity?
- ii) Whether the Competent Authority was justified in exercising the power of rectification of the area, if it partook character of review?

19. There can be no duality of opinion that, the power to review an order already passed by the judicial tribunal or quasi-judicial authority is not an inherent power. Review is a creature of statute. In the absence of a mandate, under the law which confers jurisdiction on the judicial tribunal or quasi-judicial authority to adjudicate or determine the

⁵ WP(L)/8893/2023 dt. 19/01/2024

matter, it is impermissible for the judicial or quasi judicial authority to review its own order.

20. In the oft-quoted decision in the case of *Patel Narshi Thakershi and Ors. V/s. Shri Pradyumansinghji Arjunsinghji*⁶, a three Judge Bench of the Supreme Court enunciated that it is well settled that the power to review is not an inherent power. It must be conferred by law either specifically or by necessary implication.

21. Following the aforesaid pronouncement and the decisions which take the same line, in the case of *Naresh Kumar and Ors. V/s. Govt. (NCT of Delhi)*⁷, the Supreme Court postulated that the jurisdiction of review can be derived only from the statute and, thus, any order of review in the absence of any statutory provision for the same is a nullity, being without jurisdiction.

22. In the case of *Grindlays Bank Ltd. V/s. Central Government Industrial Tribunal and Ors.*⁸, in the context of the contention that the order setting aside the ex-parte award, in fact, amounts to review, the Supreme Court

6(1971) 3 SCC 844

7(2019) 9 SCC 416

81980 (Supp) SCC 420

clarified that the decision in *Patel Narshi Thakershi and Ors.(supra)*, is the authority for the proposition that the power of review is not an inherent power, it must be conferred either specifically or by necessary implication. The expression 'review' is used in two distinct senses, namely, (1) the procedural review, which is either inherent or implied in a court or tribunal to set aside a palpably erroneous order passed under a mis-apprehension by it, and (2) a review on merits, when the error sought to be corrected is one of law and is apparent on the face of the record. It is in the latter sense that the Court in *Parel Narshi Thakershi (supra)*, held that no review lies on merits unless a statute specifically provides for it. When a review is sought due to a procedural defect, the inadvertent error committed by the Tribunal must be corrected *ex debito justitiae* to prevent the abuse of its process, and such power inheres in every court or tribunal.

23. Adverting to the aforesaid judgment in the case of *Grindlays Bank Ltd. (supra)*, and other judgments which take a similar view, in the case of *Kapra Mazdoor Ekta Union V/s. Management of Birla Cotton and Spinning Mills*

*and Ors.*⁹, a three judge Bench of the Supreme Court illuminatingly postulated the distinction between the substantive review and the procedural review, in the following words :

“19. Applying these principles it is apparent that where a Court or quasi judicial authority having jurisdiction to adjudicate on merit proceeds to do so, its judgment or order can be reviewed on merit only if the Court or the quasi judicial authority is vested with power of review by express provision or by necessary implication. The procedural review belongs to a different category. In such a review, the Court or quasi judicial authority having jurisdiction to adjudicate proceeds to do so, but in doing so commits a procedural illegality which goes to the root of the matter and invalidates the proceeding itself, and consequently the order passed therein. Cases where a decision is rendered by the Court or quasi judicial authority without notice to the opposite party or under a mistaken impression that the notice had been served upon the opposite party, or where a matter is taken up for hearing and decision on a date other than the date fixed for its hearing, are some illustrative cases in which the power of procedural review may be invoked. In such a case the party seeking review or recall of the order does not have to substantiate the ground that the order passed suffers from an error apparent on the face of the record or any other ground which may justify a review. He has to establish that the procedure followed by the Court or the quasi judicial authority suffered from such illegality that it vitiated the

proceeding and invalidated the order made therein, inasmuch the opposite party concerned was not heard for no fault of his, or that the matter was heard and decided on a date other than the one fixed for hearing of the matter which he could not attend for no fault of his. In such cases, therefore, the matter has to be re-heard in accordance with law without going into the merit of the order passed. The order passed is liable to be recalled and reviewed not because it is found to be erroneous, but because it was passed in a proceeding which was itself vitiated by an error of procedure or mistake which went to the root of the matter and invalidated the entire proceeding. In *Grindlays Bank Ltd. vs. Central Government Industrial Tribunal and others*(supra), it was held that once it is established that the respondents were prevented from appearing at the hearing due to sufficient cause, it followed that the matter must be re-heard and decided again.”

(emphasis supplied)

24. The aforesaid strict rule of no review sans statutory mandate admits of one exception, where the judicial or quasi-judicial authority commits a grave procedural irregularity which vitiates the order passed by such authority, then such authority would be justified in reviewing its own order in exercise of its inherent power, which partakes the character of procedural review. That brings to the fore the distinction between substantive review and procedural review.

25. Incontrovertibly, the Competent Authority is not empowered to review its own order under the provisions of MOFA, 1963 and the Rules framed thereunder. This jurisdictional limitation is sought to be overcome by filing application styled as the application for “issue of corrigendum” or “rectification of the order” passed by the Competent Authority. If it is a case of the correction of clerical and arithmetical mistakes or errors that have crept in due to an accidental slip or omission, the power to rectify such errors or mistakes can be legitimately conceded to the Competent Authority. Controversy arises where the Competent Authority, under the guise of correction or rectification, ventures into the area of substantive review and modifies its earlier order by delving into the merits of the matter.

26. In the case at hand, since the Competent Authority has attempted to draw support and sustenance for the exercise of rectification of the area, in a substantive measure, from the decision in the case of *Kashish Park Realty Pvt. Ltd. (supra)*, it may be apposite to note the issue that arose for consideration in *Kashish Park Realty*

Pvt. Ltd. (supra) and the enunciation of law therein by this Court.

27. In the case of *Kashish Park Reality Pvt. Ltd. and Anr. (supra)*, this Court after considering the precedents on the scope of review and the distinction between substantive review and procedural review, observed that, in the facts of the case, the question that arose for consideration was whether, by the impugned Corrigendum, the Competent Authority has merely corrected a typographical error, or whether it amounted to review of the earlier order and, if so, whether such review was permissible ?

28. A learned Single Judge enunciated that, with the disposal of the application under Section 11(3) of the MOFA, the Competent Authority had become functus officio and, not being in seisin of the matter, had no jurisdiction to review the order, unless vested with powers of review under the law. In the facts of the said case, it was found that the Corrigendum was in the nature of a substantive review and not merely correction of typographical or clerical errors. Indeed, the learned Single Judge also adverted to the fact that the order impugned in

the said petition was not passed in violation of the fundamental principles of natural justice and without providing an opportunity of hearing to the aggrieved person. However, the ratio of the judgment in the said case was not limited to the vitiation that crept in on account of non-observance of the fundamental principles of natural justice. The observations in paragraph Nos.21 and 22 make this position abundantly clear :

“21. The applications fled by Respondent -Society in other Petitions proceed on the same basis with variation in the area covered by the building and the survey numbers of the land. By the impugned Corrigenda, the Competent Authority has rectified the certificates and granted deemed conveyance not only in respect of the buildings but also in respect of the subject land and had thereby materially and substantively varied the order dated 22/07/2020. By no stretch of imagination this substantive and material change can be considered as a rectification of a clerical or typographical error, which could be rectified by issuing a Corrigendum.

22. It is also pertinent to note that with disposal of the Applications under Sub section 3 of Section 11, Respondent No.2 – Competent Authority had become functus officio and not being in seisin of the matter, had no jurisdiction to review the orders, unless vested with powers of review under the law. Learned counsel for the parties do not dispute that the statute does not vest the Competent Authority with powers of review. In the absence of such statutory powers, Respondent No.2 – Authority had no jurisdiction to exercise the power of

substantive review. Despite which Respondent No.2 – Competent Authority entertained and allowed the applications without notice to the Petitioners and without providing an opportunity of hearing, which is one of the fundamental principles of natural justice.”

(emphasis supplied)

29. At this juncture, it is necessary to note as to how the Competent Authority construed the ratio of the judgment in the case of *Kashish Park Realty Pvt. Ltd. (supra)*. The observations in Para No. 9(p) of the impugned order read as under:

“p. While issuing the corrigendum, this authority relied on the judgment passed by the Hon’ble Bombay High Court in Writ Petition (St.) No. 93044/2020 (Kashish Park Realty Private Ltd Vs State of Maharashtra and others). In the said matter the Hon’ble High Court has distinguished between the power and authority of this Authority to review / rectify the order. Bare perusal of the judgment of the Hon’ble Bombay High Court observe that this Authority has absolute power to rectify the mistake apparent on the face of the records and such rectification shall under no circumstances can be called as review of the order.”

30. The aforesaid observations of the Competent Authority leave no manner of doubt that, the judgment in the case *Kashish Park Realty Pvt. Ltd. (supra)* was completely misread and the ratio therein wholly misconstrued by the Competent Authority. The observations that the High Court has held that, the

Competent Authority has absolute power to rectify the mistake apparent on the face of record and such rectification under no circumstances amounts to review of the order is diametrically opposite to the ratio in the case of *Kashish Park Realty Pvt. Ltd. (supra)*. It seems that, the aforesaid incorrect impression gathered by the Competent Authority from the judgment in the case of *Kashish Park Realty Pvt. Ltd. (supra)* vitiated further consideration by the Competent Authority.

31. At this stage, it may be apposite to note that, the legal position as expounded in *Kashish Park Realty Pvt. Ltd. (supra)* has been reiterated by this Court in the cases of *Prem Villa CHL Vs. Uma Deep CHL*¹⁰ and *Surya Corporation & Ors. Vs. The Competent Authority & Ors*¹¹.

32. In the case of *Shri Shivam Co-operative Society Limited (supra)*, on which reliance was placed by Mr. Kanade, this Court after adverting to the aforesaid decisions, had culled out the principles which govern the exercise of the power by the Competent Authority in this branch, as under:

10 2024 SCC OnLine Bom 2987

11 2025 (2) Bom CR 780

“The legal position which thus emerges is that, in the absence of statutory mandate, the Competent Authority is not empowered to embark upon the exercise which is in the nature of substantive review. The exercise of rectification of an earlier order passed by the Competent Authority can be justified as a procedural review, only in cases of clerical or arithmetical mistake or accidental slip or omission or patent and palpable errors. Grave procedural illegality which erodes the sanctity of the order, may, in a given case, justify the procedural review. A case of fraud, however, would be an exception to the aforesaid general rule. It is trite, if the order sought to be reviewed is obtained by fraud, then the restraint on review would not apply as the order which is obtained by fraud can be attacked in any proceeding, including a collateral proceeding as fraud vitiates all solemn acts. Thus, in the absence of an egregious fraud or grave procedural illegality resulting in irretrievable prejudice to the party, like one that may occasion on account of passing an order without providing an effective opportunity of hearing to the aggrieved party, the Competent Authority is not competent to review its own order by invoking the principle of procedural review.”

33. Re-adverting to the facts of the case, a bare perusal of the impugned order indicates that, it is but an exercise of substantive review. The Competent Authority has observed, *inter alia*, that the main Application No. 18/2021

was allowed on the basis of the area of land shown in the MOFA agreement and the property card of CTS No. 633. However, the perusal of the building plan dated 02nd September, 2013 indicates that, the buildings were not constructed on separate plots as mentioned in the MOFA agreement but constructed on the layout comprising plots bearing CTS No. 628 to 633. The Competent Authority thereafter proceeded to embark upon an exercise of deducting the area and calculating the area to be conveyed to Respondent No. 1 and petitioner - Society on the basis of plinth and appurtenant area in accordance with the guidelines under the G.R. dated 26th June, 2018. The entire exercise was in the nature of re-appreciation of the material and re-evaluation of the entitlement of Respondent No. 1, on merits. To put it on other words, the Competent Authority proceeded to have a substantive review of the matter and there was no element of procedural review.

34. The endeavor of Mr. Amogh Singh to support the impugned order by placing reliance on the decisions in the cases of *Veer Tower Co-operative Society (supra)* and *Swastik Promoters and Developers (supra)*, does not merit

countenance. These decisions govern the situation where the Competent Authority is passing an order of grant of certificate of unilateral deemed conveyance, in the first instance. What the Competent Authority is expected to determine while considering an application for grant of unilateral deemed conveyance is delineated in those judgments. These decisions, however, do not confer authority on the Competent Authority to review its own order, even if it is assumed that, the Competent Authority had passed the first order erroneously. As erroneous decision is required to be corrected by challenging the same before the appropriate forums where its legality, propriety and correctness can be tested. Review is not the device for correcting an erroneous decision.

35. Reliance placed by Mr. Amogh Singh on the judgment in the case of *Jaywant Ramchandra Keni (supra)*, also does not advance the cause of the submission on behalf of the Respondent no. 1. In that case, vide corrigendum the Competent Authority had merely granted an undivided right and proportionate share in the recreational ground and internal road, in addition to the land on which the building of the society was constructed. In that context, a

learned Single Judge of this Court noted that, there was no dispute inter se the seven Co-operative Societies, and all other Co-operative Societies had also filed applications claiming a proportionate share in the internal road and recreational ground. The petitioner therein was already divested of title and possession over the entire land in respect of which the layout was sanctioned. Thus, the learned Single Judge declined to interfere with the order passed by the Competent Authority.

36. I am also unable to persuade myself to agree with the submission of Mr. Singh that, since the impugned order ensures substantial justice, this Court may not interfere in exercise of its supervisory jurisdiction. First and foremost, it is necessary to note that, the impugned order is clearly in excess of the jurisdictional limits of the Competent Authority. As the impugned order has been passed in transgression of the jurisdictional limits, the order is required to be interfered with on the said count alone. Secondly, the MOFA agreement indicates that, the Respondent No. 2 had agreed to sell the units constructed in the building on plot of land admeasuring 1525.43 sq. mtrs., only out of CTS No. 633. There was no reference to

the other CTS numbers. Thirdly, the submission that the petitioner had not assailed the order granting a certificate of unilateral deemed conveyance by an order of even date in respect of an area admeasuring 6974.83 sq. mtrs., and FSI advantage of the DP Road admeasuring 24.57 sq. mtrs., does not infuse legality and validity into an order passed beyond the jurisdiction. Fourthly, in view of the settled position in law and re-emphasized by the Supreme Court in the case of *Arun Kumar H Shah HuF Vs. Avon Arcade Premises Co-operative Society Limited & Ors.*¹², the person aggrieved by an order passed by the Competent Authority under Section 11(4) of the MOFA, 1963 is always at liberty to institute a civil suit for establishing his rights.

37. Therefore, if the grievance of the Respondent No. 1 is that, under the first order it was allotted lesser area than it is entitled to, the appropriate course for the Respondent No. 1 was to assail the said order in a writ petition or institute a suit to establish its rights to a larger area. An application for rectification which partook the character of substantive review, was not the remedy.

12 (2025) 7 SCC 249

38. For the foregoing reasons, the impugned order deserves to be quashed and set aside. Resultantly, all the consequent actions also deserve to be quashed and set aside.

39. Hence, the following order:-

:: O R D E R ::

- i] The Writ Petition stands allowed.
- ii] The impugned order dated 15th May, 2025 in Application No. 18/2021 stands quashed and set aside.
- iii] Consequently, the registered deed of rectification of conveyance dated 31st July 2025 also stands quashed and set aside.
- iv] The Respondents are directed to execute a rectification deed to restore the area of the land conveyed to the Respondent No. 1 as per the order and certificate of unilateral deemed conveyance, dated 29th November, 2021.

v] Rule made absolute to the aforesaid extent.

No costs.

[N. J. JAMADAR, J.]

At this stage, Mr. Singh learned Counsel for the Respondent No. 1, seeks stay to the execution and operation of this order.

In the light of the view this Court has taken, the oral application for stay stands rejected.

[N. J. JAMADAR, J.]