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Sept 2018

VOL.08 Issue 06

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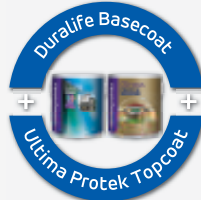
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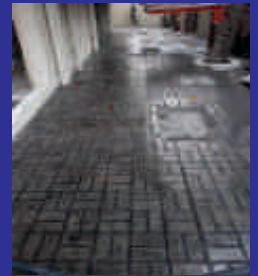
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EDITORIAL



राजिब
श्री. दि. विष्णुनाथन

Dear Readers,

Season's Greetings,

At the outset I express my deep condolence towards our beloved leader, an eminent statesman, a true gentleman, writer, poet, journalist and ex-Prime Minister of India Bharat Ratna Atal Bihari Vajpayee. On the very next day we lost our ex-Indian Cricket Captain, who brought first World Cup to India, lefty batsman Ajit Wadekar. I also express homage towards his memories.

In a recent judgment delivered by the Hon'ble Bombay High Court, the Hon'ble Court commented that, the Registrar, Co-operative Housing Societies could only decide on administrative issues like maintenance of accounts and not disputes between parties. The Hon'ble Judge pointed out that the provisions under the Maharashtra Co-operative Societies Act, the Registrar is empowered to look into issues relating to the maintenance of accounts, filing of returns, but had nothing to do with the obligation of the society to carry out repairs in respect of the tenements occupied by the members.

One good news regarding RERA is that, the implementation ratio of RERA in the State of Maharashtra is 90 per cent. All other States are lag far behind of Maharashtra. Another good news is that, the Government of Maharashtra has given final approval for conversion of the land in the Industrial Area into the Residential use. Open land in the area of industrial use or closed down factories/ industries land in the Municipal Corporation limit will be given permission for the residential construction according to due F.S.I.

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REDEVELOPMENT and SELF-REDEVELOPMENT of HOUSING SOCIETIES



Re-development cannot be at the disadvantage of the member. Re-development always put him in a better position. Re-development is happening which affecting owners and members rights or the privileges than that Re-development definitely come to standstill.

I will repeat once again that when Re-development cannot stopped? When the Re-development stalled? The Re-development stalled only if the society tries to displeased members and put them disadvantage stage.

Why Re-development? Because people cannot spent money on repairs and after 30 years, 40 years, if you not spent money on repairs than the Maharashtra Government or especially under the Maharashtra Region Town Planning Act an amendment was done, wherein additional FSI in the form of either premium FSI or in the form of TDR given, so that one sq.ft. now you will be able to consume 2.7 may be 3 sq. ft., so that additional 3.7 sq.ft. you are getting, you will able to sale in the open market, raise the money for the existing people and out of that you can pay rent and corpus. So that is purpose by the problem is the greed is taking precedence than the necessary. Mahatma Gandhi has said that 'there is enough resources for necessary things but there is no resources for greed.

A greed in the re-development that brought the Re-development in trouble. When we analyzed, we see that the people because of the greed, because of certain extra ambition throw away the good developer, they are picking such persons who gives more incentive or rather more area actually which they cannot deliver what they promised.



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Redevelopment on different types of land. The question came on 99 years lease on B.M.C. What they have done is if you have to see always whenever there is lease land. Please try to understand that whenever there is lease land whether it is MHADA, or whether B.M.C. or MHADA, or M.M.R.D.A. or whether it is private trust land or collector land for that matter. We need to take NOC or permission from the existing land owner. The movement we go for permission i.e. BMC or MHADA or Collector they put a condition while giving permission for Re-development. What is a condition they put as a policy decision, they say we had given you 99 years lease, now that hardly 33 or 40 years are over. Now when you are going for Re-development, we allow you to Re-development. But a condition is put that

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further lease will be given only for 30 years and secondly they also increase the lease rent. So therefore there are two types of land. **Free hold land and Lease hold land.** Free hold land there is no issue, but lease hold land, leasehold right, we need to go the respective land owner and take the permission therefore. Many times whenever private society, where they got lease from trust, go for Re-development.

Whether it is possible? Can one member bring stay on Re-development? These are your major questions. Second is how to evict them? Suppose they do not co-operate how can we remove them and go ahead with Re-development?

There are different types of lease holding and land holding also for different period. 99 years was the earlier period BMC used to give. Now MHADA also used to give about sixty years lease. Now all the them have made it 30 years. If builder delaying what action we take?

In case of lease from Trust, it is better to request them to convert in free hold land. In other cases lease of 30 years may be renewed. Nobody can be displaced. Earlier Collector was charging for Re-development. What are the TDR you are loading, extra FSI you are loading charging 25% as the ready reckoner premium as the Re-development premium to give the permission. But now that has been reduced to 10%. Regarding MHADA, if it is more than 4000 sq. mts. then only you will have to share the built up area with MHADA. Otherwise if it is less than 4000 sq. mts. you need to pay certain premium may be around 60% of the ready reckoner value for the additional FSI you are getting.

Re-development are taking place because buildings are deteriorated and people are not able to pay the money and they think that Re-development is the only solution. It is always advisable to go for structural audit. There is no written law that you do the structural audit.

But as far as BMC law is concerned it is very clear that any project, any property which is more than 30 years old you have to compulsory carry out the structural audit once in 3 years. One more thing which I need to emphasized here that lot of societies you know they do not go with set procedure. They always go ahead with the short cuts. They will think that this builder is good, that builder is good. Procedure are not followed. That is what you are going to have problem.

Next question which I want to deal right now is about procedure of **Re-development is given in Section 79A in the form of Circular dt. 3rd January 2009**, The next question arises whether the circular is mandatory circular. **Whether is compulsory circular?** Whether we follow its entirety, the answer is absolutely no. That is not set by me, it is set by the Hon'ble High Court. Hon' High Court has said, 79A is not a mandatory directions, it is only a guidelines, only a directions which is given by the Co-operation Department to have a better transparency and if you are able to follow certain things out of that, that is more than enough. Second things if resolution is passed in general body with majority whatever the members presents, the matters have gone to the High Court and even Supreme Court and the Supreme Court also has said that Collective wisdom of the General Body who decides how the Redevelopment has to done, when developer to be appointed. Therefore it is not upto the Registrar or the few minority people who will take the Redevelopment for a right. So therefore the question is 79A mandates, that you need to have 75% attendance and some people not able to have that attendance whether than go with the General Body, the answer is yes.

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500 HSG SOCIETIES AT BANK DOOR FOR SELF-REDEVELOPMENT

Mumbai District Central Cooperative Bank has approved Rs 52-cr loan for 8 societies, Rs 770 cr for 19 more

The Mumbai District Central Cooperative Bank's (MDCCB) self-redevelopment scheme for co-operative housing societies has elicited huge response. So far, around 500 housing societies across Mumbai have shown interest in redeveloping their own buildings without the involvement of builders.

The MDCCB has sanctioned loans worth Rs 52 crore to eight housing societies, out of which four have started work. Redevelopment of two societies is at an advance stage of completion. Loans worth Rs 770 crore have been pre-sanctioned for 19 societies.

Speaking to Mirror, the bank's chairman and BJP MLC Pravin Darekar said, "Thousands of redevelopment projects across Mumbai are stranded for various reasons. The builders promise to undertake redevelopment in two-three years, but the projects drag on for five to seven years and in some cases, for more than a decade. This prompted us to tailor such a self-help scheme for housing societies." He added that under this scheme, the bank disburses 90 per cent of the project cost as loan. "We not only provide loan, but also hand-hold these societies in obtaining permits from the BMC, MHADA, MMRDA, environment ministry and other government departments," Darekar said.

The MDCCB has a special cell and panel of experts and contractors, who give professional advice to the societies. "But the societies are free to choose any architect or contractor," he added. Ajit Thakur, secretary of the Ajitkumar co-operative housing society in Goregaon, said, "We were trying to rope in a builder redevelopment for almost three years. But as our complex's plot is small — merely 525 sqm builders were not interested. That prompted us to start exploring the option of self-redevelopment."



Source : MumbaiMirror

Residents of the Ajitkumar housing society in Goregaon will not only get bigger flats, but will also pocket profit once redevelopment is over

The society members are happy that they will not only get new and bigger flats, but will also be able to pocket some profit once redevelopment is over. "Our society has 12 members and all of us are getting 25 per cent extra area in redevelopment. On top of that, the society will get 12 more flats or an area of around 5,500 sqft for sale. This is our profit," Thakur explained.

Shirish Deshpande, chairman of consumer rights group Mumbai Grahak Panchyat, urged the state government to promote this scheme. "It will help bring down the prices of flats in Mumbai. The housing societies will not be as greedy as builders while selling their sale component flats. If self-redevelopment happens on a massive scale, then the builders will have to bring down the prices of flats as well." Sitaram Rane, president of the Maharashtra State Cooperative Housing Societies Federation, said, "The self-redevelopment will rekindle the spirit of cooperatives and help the members most while eliminating middlemen like builders, who pocket huge profits in such projects."

There are around 33,000 housing societies in Mumbai, most of which were built in the 60s, 70s and 80s and are in dire need of redevelopment.



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ELECTION OF THE COMMITTEE IN THE CO-OPERATIVE HOUSING SOCIETIES – BEWILDERMENT

There are nearly more than one lakh Co-operative Housing Societies in the State and more than 70 per cent population in the urban areas is directly or indirectly connected with the Housing Societies. The needs and objects of these societies are different than the other co-operative societies like co-operative banks, Credit Societies, Sugar Factories etc. which are profit making societies. Co-operative Housing Societies are not profit making societies.

Since the provisions of the Maharashtra Co-operative Societies Act 1960 which are applicable to these general societies, the same also applicable to the co-operative housing societies. Therefore problems created in solving the issues of Housing Societies and large number of complaints poured in the Co-operation Department in that regard.

Therefore Government of Maharashtra had decided to add separate Housing Chapter 154 B in the Maharashtra Co-operative Societies Act, 1960. And for this the Government had formed Committee under the Chairmanship of the Principle Secretary of Co-operation Department to study the matter. The committee has submitted its report to the Hon'ble Chief Minister. The Cabinet accepted the report and given its approval for inclusion of Separate Chapter i.e. Section 154-B for Co-operative Housing Societies in the Maharashtra Co-operative Societies Act, 1960.

Following are the main provisions in the new chapter.

1. Provision to make available all documents except personal information under the Right to Information Act.
2. Provision of offence and penalty to keep the legal fear.
3. Concept and Provision of Associate Membership by considering the practical issues like mentality of the original member

not to leave the probable rights in the property and similar mentality of not taking risk and at the same time expectation of not to disturb ones personal & collective interests while working as representative behalf of him.



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4. Prohibition to use limited right to the defaulter member.
5. Transfer of the interests after the death of the member.
6. Creation of fund, investment of the fund and its utilization.
7. Conditions for the Registration of Society, limits of Share Transfer, Training for the members, right to see the documents, members' rights and duties also voting right to them.
8. Provisions like formation of the Society, reservation of the directors on committee, members' disqualification, management of the Housing Societies, recovery of due amount etc. has been made.

In addition to the above provisions amendments have been made in the following five sections.

- A. A provision should be inserted in sub section (10) of Section 73CB as "Provided that, in respect of the society having 200 or less than 200 members, the election of the committee shall take the concerned society according to rules.
- B. To remove the sentence "regarding the recovery of maintenance & service charges or dues amount of the co-operative housing societies." & explanation (II) shall be deleted.
- C. To include the provision in Section 146 that, "If the copied of the documents is not provided according to the provision in Sub-



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Section 2 of the Section 8 of the Section 154-B by the Office bearer of the Committee or some officer or ex-member shall become an offence under section 146.

D. To insert Clause P-2 for making a provision in Section 147, "If found guilty for the offence in Section 146, the penalty of Rs. 25,000/- shall be charged."

E. In Sub Section (1) of Section 152, "after the number '105', (3) B 154 and (3) B154(II) shall be inserted.

This decision of the Government approved by the Cabinet will be forwarded to the Law and Judiciary Department for its legality and thereafter it will be forwarded to the Hon'ble Governor of Maharashtra for his consent. After Hon'ble Governor's consent this Separate Chapter will be published in the Official

Gazette of the Government of Maharashtra as a Notification and then only it will be applied and implemented.

However since the Government of Maharashtra has published this decision through Press Note, confusion arise in the minds of thousands of Co-operative Housing Societies whether to start the process of Committee election according to the existing law or to wait for the New Housing Chapter.

I suggest to all Co-operative Housing Societies to conduct their election as per existing law, otherwise you have to face the ire of the State Co-operation Election Authority. Any query regarding conducting committee election of the co-operative Housing Society, please feel free to contact our office, our staff is ready to co-operate and help you.

Continued from page No. 06

However they have to take permission of the Commissioner of Municipal Corporation and have to pay 20 per cent premium of the ready reckoner rate. The area of the homes to be built in the Housing Project in the Industrial Areal shall be 30 and 50 square meters respectively. This will further the Housing Projects in the Industrial use area in the limits of Thane, Navi Mumbai, Kalyan-Dombivali, Mira-Bhayander, Ulhasnagar and Bhivandi-Nizampur Municipal Corporation. MHADA also going to minimize the prices of the stock, it is getting from the rehabilitation scheme by 20 per cent of the market rate. MHADA gets some stock from the various schemes of re-development. MHADA is charging ready reckoner rate for these homes.

However no one was ready to buy these homes since its rates are high then the market ready. Therefore MHADA has taken this decision. But this change in the rate is available to the Higher and Middle Income Group only. All these efforts shows that the Maharashtra Government is trying its best to achieve the target of Home to All by the year 2022.

While going to the press this issue, the news

poured that the much awaited Development Plan-2034 will come into force from 1st September, 2018. This pave the way for re-development. Since the new DP-2034 come into force partially, it will be better to comments on it later. The main features of this new DP-2034 are as follow :-

- Citizens are allowed to carry out internal changes in flats without Seeking BMC approval subject to structural changes.
- BMC will soon hold a public hearing for suggestions and objections received, thereafter the Excluded Plan will be finalized.
- All new plans that have been submitted will now be scrutinized under new DCPR 2034.
- Now 2.5 F.S.I. will be available to suburb.
- Premium amount for additional area has been brought down from 50% to 25%.

Buildings on roads less than 9 meter wide will find it difficult to redevelop as TDR will not be allowed on plots abutting such roads.

With Best Regards,

Secretary, V. Viswanathan



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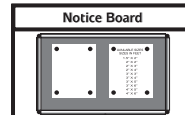
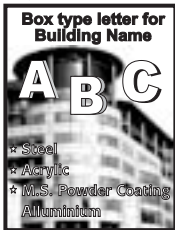
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ALL REALTY PROJECTS WILL EVENTUALLY BE COVERED BY RERA: HARDEEP SINGH PURI

Speaking at the real estate conference organised by CII and CBRE in the capital on August 29, Puri said that the Centre was committed towards regulating the real estate sector and protecting the interests of homebuyers.

NEW DELHI: Asserting that the government is committed to resolving the problem of home buyers, Union minister Hardeep Singh Puri said today that all real estate projects will eventually come under the purview of real estate law RERA once the regulator is established in all states to protect consumers interest.

Hard-earned money of over lakhs of home buyers in Delhi-NCR is stuck because of defaults by developers including Jaypee group, Amrapali, Unitech and The 3C Company in deliveries of their projects on time.

Speaking at the CII-CBRE real estate conference, Puri said a high-powered committee, headed by Union Housing Secretary, has submitted its report to the Uttar Pradesh government. The state government had constituted this panel to examine the issues and propose some viable solutions to the problem faced by the home buyers.

The Housing and Urban Affairs Minister however did not disclose the recommendations contained in the reports.

He also said that state-owned construction firm NBCC will soon submit its report to the Supreme Court regarding the feasibility of completing the incomplete projects of Amrapali where thousands of homebuyers are stuck.

"This is a responsive government. We do not shy away from the problems...we are totally committed to resolve the problems of home buyers and the sector", Puri said, adding that the apex court as well as the government was seized of the matter.



He highlighted that the NDA government has passed the RERA legislation to regulate the real estate sector and protect consumers' interest. "RERA will ensure that in future buyers will not sign one sided contracts. RERA authority can deal with that. There has been some attempts at tweaking RERA so far as ongoing projects are concerned. But I think that's coming to the naught because as RERA mechanism are being established in States, all projects will get covered by the RERA. So I think, its going in that direction", Puri said.

Speaking on the sidelines, he said there are complaints currently that many states have not set up authority and West Bengal has come up with its own law.

"In my view, once RERA is established and takes off, there will be a demand that all real estate projects should come under the purview of this law," Puri said, adding that there would come a stage when this would happen. At present, all under-construction projects, which do not have completion or occupancy certificates, have to be registered under RERA and comply with all the provisions of the law.

The minister did not comment on recent judgment by a Gurgaon bench of Haryana-



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Indian society of structural engineer (ISSE)	1999
Institution of Valuer	2002
Mumbai Building repair & reconstruction board (MHADA UNIT)	2002
License of site surveyor	1988
License of site supervisor	1997
American society of civil Engineers (ASCE)	2004
Institute for steel development & growth	2001
Indian society for technical Education (ISTE)	2002
Registered member of the council architect New Delhi	1984
Associated member of the Indian Institute of Architects	1984

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RERA that real estate projects come under the ambit of Real Estate Regulation and Development Act (RERA) whether they are registered under RERA or not.

Earlier Puri spoke in detail about the RERA and said that the Act upholds the spirit of federalism by allowing the States to set up the Regulatory Authority and the Appellate Tribunal and the role of the Centre is limited to Union Territories without legislature.

"The Act attempts to balance the interests of the consumers and the developers by imposing clear responsibilities on both. The Act seeks to establish symmetry of information between the promoter and the purchaser; transparency of contractual conditions; set minimum standards of accountability; and a fast-track dispute resolution mechanism," he added.

The Act is aimed at consumer protection, by creating an online system for information sharing so that there is mutual trust between the developer and the buyers, and projects are implemented in time.

Elaborating on the main features of the RERA, he said the law introduces the concept of using only 'carpet area for sale', which has till now been ambiguously sold as super area, super built up area etc.,.

The RERA makes it mandatory upon the promoters to deposit 70% of the funds, received from the allottees in a separate bank account, to cover the construction cost and land cost of the project. This requirement shall prevent fund diversion and ensure timely completion of projects.

The law seeks to establish a regulatory oversight mechanism, through Real Estate Authorities and Appellate Tribunal in states and Union Territories, to enforce accountability norms for the promoters, buyers and the real estate agents. I

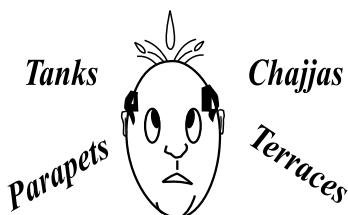
t also provides for a speedy and specialised adjudication mechanism to settle disputes between the promoter, buyer and real estate agents.

Source : PTI | 30th August, 2018



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FLAT OWNER CANNOT RECOVER HOUSE REPAIR COST FROM SOCIETY

A flat owner cannot recover cost of repairs to his flat from the society, the Bombay high court has said. Justice Ramesh Dhanuka struck down a 16-year-old order passed by the secretary, cooperating department of the state and the deputy registrar, cooperative societies directing Maitri Park housing society in Chembur to reimburse repair costs incurred by a member. The society had claimed that it was not liable to reimburse the costs of repairs to the terrace and the flat.

"It is the case of the society that the member has not only claimed for the repairs to the terrace and other structures but has also got his flat repaired... In my view, such demand by the member for repairs allegedly carried out in his flat from the society even otherwise was totally untenable," said the judge.

The court said registrar could only decide on administrative issues like maintenance of accounts and not disputes between parties. The judge pointed out that the provisions under the Maharashtra Cooperative Societies Act, the registrar is empowered to look into issues relating to the maintenance of accounts, filing of returns, but had nothing to do with the "obligations of the society to carry out repairs in respect of the tenements occupied by the members."

The society set up in the 1960s, comprises 32 buildings of ground plus one storey and 12 buildings of ground plus two to four storeys. In the ground plus one storey structures, the lower floor flats have exclusive access to individual gardens while the first floor flats have exclusive use of their respective terrace.

In 2000, the society passed a resolution refunding the amount collected towards repair funds to its members. The flat owners on the ground floor and first floor were given the responsibility of maintaining their gardens and terraces and carrying out repairs.



A dispute was raised by a member on the first floor asking the housing society to carry out repairs to the terrace. The deputy registrar in 2002 ordered the society to carry out repairs. Subsequently, it appointed the member itself as an agent of the registrar authorising him to carry out repairs.

The member carried out repairs and submitted a bill of around Rs 1,82,000. The society said that following the 2002 resolution and refunding of the repair fund, it was not liable to carry out repairs. The high court agreed and struck down the orders of the deputy registrar which was subsequently upheld by the secretary.

"The resolution passed in the General Body Meeting of the society was admittedly not impugned by any of the members and thus binding (on the members)," said the judge. "In my view, the society was thus not required to carry out repairs in the block/building in respect of consisting of ground plus one structure.

The repairs, if any, were thus required to be carried out by the members themselves at their own costs in view of the resolution passed by the society. Even if the society would have carried out such repairs such amount was liable to be reimbursed by the concerned members in a particular ratio."

Source : Times of India










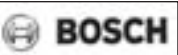
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HSG SOCIETY ALLOWED TO END REDEVPT DEAL WITH SLACK BLDR

10 Years After Contract, Little Work Done

The Bombay high court recently upheld an arbitrator's decision permitting a housing society in Tilak Nagar, Chembur, to terminate its decade-old redevelopment contract with a builder. Till date, there has been little progress in the redevelopment work.

On October 7, 2017, an HC appointed sole arbitrator had concluded that the contract termination was valid and directed the builder to pay the society Rs 49 lakh with 9% interest since the date of awarding the contract. In February, a single judge bench upheld the arbitrator's award but the builder challenged it again and went in appeal. In July, an HC bench of Justices NH Patil and GS Kulkarni too upheld the arbitrator's decision and imposed Rs 50,000 cost on the builder.

Tilak Safalya Co-operative Housing Societies Ltd signed a contract with Srushti Raj Enterprise (India) Ltd in 2007 to redevelop its building with 24 flats. The building was vacated the same year by the 24 families living there. In 2010, the building, on land leased out by Mhada, was razed. Though a new building was to be built in two years, work didn't start and in 2014, the society terminated the deal. In 2017, the builder challenged the termination.

The builder had argued there was no provision in the agreement to terminate the deal. But pointing out that the law was well settled, the HC said, "Even if there is no provision in the agreement for termination, nonetheless under law if there is breach of the terms and conditions of the contract, the parties are entitled to terminate the contract."

In the appeal, the builder through counsel Prasad Dhakephalkar argued that he was entitled under the agreement to use 2.4 FSI but was offered "only 2.14" and hence, had a right to seek the remaining.

CHEMBUR BLDG DEMOLISHED IN 2010



The Tilak Nagar land has been leased out to the society by Mhada

2007 Tilak Safalya Co-operative Housing Societies Ltd signs a contract with Srushti Raj Enterprise (India) Ltd to redevelop its building with 24 flats. Building is vacated. New building is to be built in two years	2010 The building is razed
	2014 Seven years later and yet, no construction is done. The housing society terminates the redevelopment contract with the developer
	2017 The builder launches a legal battle against the

But the society, through counsel Zal Andhyarujina argued that the builder had himself submitted plans to utilise 2.14 FSI. The HC bench perused the agreement and observed that it clearly indicated that though 2.4 FSI was available to the builder, he did not avail it for which he is "solely responsible" and the society cannot be blamed as there is nothing to show that it prohibited its utilisation.

The HC also rejected the builder's plea for continuation of a stay in his favour for six weeks to enable him to move the SC. The society said its members don't have a permanent roof since 2007 and no further relief be granted to the builder.

Advocate Niranjana Jagtap, who represents the society said the members now propose to go for self-development and not appoint a new builder.

Source : Times of India



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to save the 12% GST. But in this way they are taking risk. Mind it well that till the agreement is not executed, the consumer is not getting protection under MahaRERA. If such project stranded for one or another reason, the consumer has to lose his money.



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To attract the consumers, the developer advertise that Ready to Occupy flats available, Occupation Certificate received, No GST etc., but these are deceiving advertisement. No Developer sell their stock in bearing loss. Already developer built the project by taking loan on hefty interest rate from the market. They include this interest rate plus their profit and prevailing market rate in their price. This means consumers pouring more money in lieu of saving GST.

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The complete procedure is provided in the Amended Maharashtra Ownership Flats Rules, 2010. The same in the form of process flow chart is given hereunder for the benefit of the readers.

PROCEDURE TO OBTAIN THE DEEMED CONVEYANCE ORDER

- 1** Society/Company/Condominium (Apartment Owners Association) to apply with documents & prescribed fees/ Court fees
- 2** Competent Authority to verify Documents from his officials or the Authorized officer and obtain the report to that effect.
- 3** To issue compliance notice in form No. VIII to the applicant to remove the defects in the application within 30 days.
- 4** Competent Authority to finally verify Documents submitted in response to compliance notice & if proper in all respect ,to admit the application or reject the same & on admitting the application, register the same in the appropriate register.
- 5** Enquiries if any will be conducted and spot visit will be done by officials of Competent Authority or his authorized officer wherever required.
- 6** To admit any person as intervening party in response to Public Notice or who claim to be interested parties against the application and decide about the same by the competent authority
- 7** Interested party to file its say and also deliver a copy to the applicant and all other parties made in the application.
- 8** Receive the written reply from the Applicant and other opponents based on the submission made by the interested party in response to Public Notice.
- 9** Oral Arguments of the applicant, Opponents and the interested parties on the submissions made by each of them and to submit the necessary documents in support of their arguments.

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- 10** Speaking Order and Certificate of Deemed Conveyance to be issued by Competent Authority or speaking order for rejecting the application.
- 11** Competent Authority to execute the Conveyance deed and register and issue a letter to regarding the exemption of his appearance before him to admit the execution before the sub-registrar of assurance at the time of registration of the same.
- 12** Deemed Conveyance order shall be passed or Application for the same to be rejected within a period 6 months from the date of receipt of application by the competent authority subject to receipt of relevant documents.
- 13** Competent Authority will issue Notice to Promoter/ Opponent and other interested parties on the said land and building.
- 14** Hearing to be conducted by Competent Authority.
- 15** Submission of Written Arguments by the opponents/ Builder / Land Owner and other interested parties.
- 16** The Competent Authority may direct the Opponent to produce certain Documents in support of the statements made by the Builder / opponent based on the arguments of the applicant.
- 17** To hear the other parties on the documents produced by the party as per the directions of the Competent Authority and to decide on the same by the competent authority based on written submission and the oral arguments made by all the parties.
- 18** Public Notice will be Issued as per the Order of competent Authority in News papers at the cost and expense to be incurred by the applicant in case the notices are not served to the Opponents/ Builders/ Land owners.
- 19** Relevant Documents which are required by the Competent Authority to ascertain the authenticity of the Application and to arrive at the Final Decision about granting the conveyance shall be obtained by the Competent Authority through authorized officer at the cost and expense of the Society.
- 20** Vetting of Draft Unilateral conveyance deed from the authorized officer appointed by the Competent Authority. Get Professionals to Draft the Unilateral Conveyance deed, if required.

After going through the above flow chart, the following explanations for each step can be given and the process to obtain the deemed conveyance has to be undergone.

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HOUSING SOCIETY CAN'T RELAX 2/3 MAJORITY RULE FOR NO-TRUST MOTION: BOMBAY HC

Justice Ramesh Dhanuka dismissed a petition filed by a few managing committee members of a Khar society who had sought that the rule should be relaxed when the 2/3rd norm results in a fraction

Housing society rules that require 2/3rd majority for passing a no confidence motion to unseat office-bearers cannot be relaxed, Bombay high court has ruled.

Justice **Ramesh Dhanuka** dismissed a petition filed by a few managing committee members of a **Khar** society who had sought that the rule should be relaxed when the 2/3rd norm results in a fraction.

"A plain reading of Section 73-1D of the Maharashtra Cooperative Societies Act clearly indicates the said provision neither provides any relaxation for rounding off a fraction on the lower or higher sides, as the case may be," said the judge, adding no words could be added in the provision to provide relaxation or round off numbers.

The petition was filed by a few managing committee members of **Link Apartment in Khar that has around 17 flats. In 2015**, eight members were elected to the managing committee and three seats were kept vacant as there were no reserved category members for those seats.

A year later, five members moved a no-confidence motion against the chairperson,



secretary and treasurer. The assistant registrar of cooperative societies rejected the motion as it did not have the requisite support of 2/3rd members.

The aggrieved members challenged the order in high court. They claimed for a 2/3rd majority, the votes required are 5.33. However, since each member has just one vote, the .33 fraction should be rounded off to five and the motion accepted.

The judge said if the interpretation that 2/3rd majority which comes to 5.33 has to be read as 5 is accepted, then it would be below the mandatory percentage of votes required.

Source : Shibui Thomas, Economic Times,



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18	Kandivali (E)	Gilbert Fernandes	9867687055/7506592034
19	Kandivali (W)	Sanjay Rathod	8291280386/9930752751
20	Borivali(W)-S V P Rd-From Cosmos Garden to Chamunda Circle, Yogi Nagar, Eksar, Rokadia Lane, Sodawala Lane	Vijaykumar Patkar	9870878910
21	Kandivali (W)	Rupesh kumar Kosambi	9167198709
22	Pawai	Shaikh Mohd Naseer	8898306066/7021727174
23	Borivali (W)-IC Colony, Madonna Colony, Marian Colony, Opp. Mary Immaculate Girls High School.	Narendra Patkar	8767334918
24	Borivali(W)-LIC Colony, Chandravarkar RD, S.V Rd to Poisar Depot, Vazira Naka, Link Rd, Bhagwati Area	Cynthia Pujara	9833967434
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28	Dahisar (W)	Bhavna Pandya	9967840406
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40	Virar (E)	Darshna Tawde	7977961618/8108129005
41	Ghatkopar (E)	Krishna N Renukuntla	7900002741/9082165946
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44	Mulund (W)	Santosh Shivram Mane	7977961618/9699606687
45	Mulund (W)	Rajesh Dalvi	9653654980/7738605817
46	Kalwa	Laximikant Yadav	9867167169/7738677384
47	Dombivli (W)	Akshay Kadam	9702468517
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49	Kanjurmarg / Bhandup	Vinayak Padloskar	7201680462
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Regd. No. TNA/VSI/GNL/(O)/1453/2011 dated 25th August 2011.

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Date- / / 2018

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FORM OF APPLICATION FOR MEMBERSHIP/And Allotment of the
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Yours faithfully

Chairman / Secretary / Treasurer
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Copy of the Resolution of the Meeting of the Managing Committee of the _____
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Proposed By : Shri _____

Seconded By : Shri _____

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Chairman / Secretary Society

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