

NOTIFICATION

Housing Department,
Madam Cama Marg,
Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032.
Dated 6th September, 2014.

Maharashtra
Housing
(Regulation
and
Development)
Act, 2012.

No. MHA 10.14/ C.R.21/ R&R-2 .- The following draft of rules which the Government of Maharashtra proposes to make in exercise of powers conferred by sub-sections (1) and (2) of section 51 of the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. II of 2014), and of all other powers enabling it in that behalf, is hereby published as required by sub-section (1) of section 51 of the said Act, for information of all the persons likely to be affected thereby; and notice is hereby given that the said draft rules will be taken into consideration by the Government of Maharashtra on or after the 10th October 2014.

2. Any objections or suggestions, which may be received by the Principal Secretary, Housing Department, 4th floor, New Mantralaya, G.T. Hospital Campus, Lokmanya Tilak Road, Mumbai 400 001, from any person with respect to the said draft on or before the aforesaid date, will be considered by the Government.

DRAFT RULES

Maharashtra
Housing
(Regulation
and
Development)
Act, 2012.

No. MHA 10.14/ C.R.21/ R&R-2 - In exercise of powers conferred by sub-sections (1) and (2) of section 51 of the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. II of 2014), and of all other powers enabling it in that behalf, the Government of Maharashtra, after considering the objections and suggestions, pursuant to the Government Notification, Housing Department, No. ***, dated the *** of 2014, published in the Maharashtra Government Gazette, Extraordinary, Part IV-B, dated the *** of *** 2014, is hereby pleased to make the Rules, as follows, namely:-

Chapter I – General

1. Short Title.- These Rules may be called the Maharashtra Housing (Regulation and Development) (Deemed Conveyance) Rules, 2014.

2. Definitions.-

(1) In these Rules, unless the context otherwise requires, -

(a) “Act” means the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. II of 2014);

(b) “Authorized Representative” means any professional person such as an Advocate, Chartered Accountant, Architect, company secretary or office bearer or bearers of the legal entities appointed by a party to represent before the competent Authority in the proceedings, duly authorized by a resolution (where applicable) and a letter of the authority;

(c) “Competent Authority” means the Competent Authority established under section 21 of the Act;

(d) “Department” means the Housing department of the State Government dealing with Housing in the State.

(e) “Government” means the Government of Maharashtra;

(f) “Pleadings” includes petitions, applications, appeals, replies, rejoinders, references or any other filings made to the Competent Authority;

(g) “Rules” means the Competent Authority and Deemed Conveyance (Conduct of Business) Rules, 2014, as amended from time to time;

(g) “State” means the State of Maharashtra.

(2) Words and expressions used in these rules but not defined hereinabove shall have the same meanings as respectively assigned to them in the Act and wherever applicable, the singular includes plural and *vice-versa*.

3. Competent Authority’s office, office hours and sittings.-

(1) The office of the Competent Authority shall be at such place as may be mentioned in the notification issued under section 21 of the Act.

(2) The Competent Authority shall work on the days and as per the timings as notified by the State Government, from time to time.

(3) Where the last day for doing any act falls on a day on which the office of the Competent Authority is closed and by reasons thereof the act cannot be done on that day, it may be done on the next working day of the Competent Authority.

(4) The Competent Authority may conduct its meetings/proceedings at the same office or at any other place within the State, as it may deem fit.

4. Language of the Competent Authority.-

(1) The proceedings of the Competent Authority shall be conducted in Marathi or English.

(2) The Competent Authority shall issue all orders in Marathi or English:

Provided that, orders in Marathi shall be accompanied by a translation in English and *vice-versa* and these orders shall be uploaded on the Website of the Housing Regulatory Authority.

(3) The Competent Authority shall comply with the directions of the State Government issued, from time to time, on the use of the Marathi language in correspondence.

5. Seal of the Competent Authority.

(1) There shall be a separate seal of the Competent Authority.

(2) Every order, decision, communication, notice or certified copy passed or issued, by the Competent Authority shall be stamped with the seal of the Competent Authority and shall be authenticated by the Competent Authority or any other Officer of the Competent Authority designated for the purpose.

6. Applications under sections 18 and 19.

(1) Every application under sub-section (5) of section 18 or sub-section (4) of section 19 may be presented in person by the applicant or by a duly appointed authorized representative of the Co-operative Housing Societies or Companies or any other Legal Entities or as a Holding Company of separate and independent Co-operative Housing Societies or companies or any other Legal Entity, to the Competent Authority during its office hours or may be sent to the Competent Authority by registered post. If the Applicants want to avail the online facility available, they can register themselves and upload the application through online system on the website of the Competent Authority.

(2) Where an application is signed and presented by an authorized representative of the Co-operative Housing Societies or Companies or any other Legal Entity or as a Holding Company of separate and independent Co-operative Housing Societies or companies or any other Legal Entities, it shall be accompanied by a letter of authority appointing him as such and duly signed by the applicant and accepted by the said authorized representative.

(3) Every application shall be made in accordance with the provisions of the Act, the Rules and Notifications and shall be affixed with Court Fee Stamps of rupees one thousand only and enquiry fees of rupees one thousand shall be paid to the Competent Authority.

(4) Every Application shall—

- (i) be either typewritten or written in ink in legible handwriting;
- (ii) specify the name and address of the Applicant and also those of the Opponent;
- (iii) state clearly the grounds on which the application is made;
- (iv) state precisely the relief which the Applicant is seeking;
- (v) be tendered in such number of sets as required depending on the number of Opponents involved;
- (vi) be accompanied by a certified copy of a Resolution authorizing the Applicant to file the application when the same is filed for Group of Persons or Flat Purchasers or on behalf of a body corporate or a legal entity.

7. Notice of Date of Hearings.-

(1) The Competent Authority shall issue necessary notice to all the parties regarding the date fixed for hearing the application and shall publish or display on the office notice board of the Competent Authority, the date fixed for the hearing thereof sufficiently in advance.

(2) Every Competent Authority shall carry out such directions or instructions as may be issued, from time to time, by the State Government for the efficient administration of the Act.

8. Place of Hearing.- - All applications filed under these rule shall ordinarily be heard at the respective offices of the Competent Authority.

9. Form of Application under sections 18 and 19 . - (1) Every Application under sub-section (5) of section 18 shall be in **Form I and accompanied by, wherever possible, certified copies of the following documents, namely:-**

- (i) The registered Agreement for Sale entered into with the Promoter or Opponent Party
- (ii) 7/12 Extract, Village Form No. 6 (Mutation Entries)
- (iii) Property Card,
- (iv) Title and Search Report issued by an Attorney-at-Law or an Advocate
- (v) Order of Non-Agriculture Permission
- (vi) Building Plan approved by the Appropriate Planning Authority,
- (vii) Commencement Certificate,
- (viii) Completion Certificate,
- (ix) Occupation Certificate,
- (x) List of Flat Purchasers and list of unsold Flats,
- (xi) Proof of payment of Stamp Duty and Proof of Registration of at least 60% of the Flat Purchasers in the building or buildings,
- (xii) Legal notice sent to the Promoter demanding the formation of the Co-operative Housing Society or the Association or the Company as provided under the Act.

Every application under section 18, wherever possible, shall make the persons, firm or the company or its partners or the directors, land owner, mortgagee and every person involved or flat purchasers who bring hurdles in the process of formation of the Society or the Company or the Association, as the case may be, including the Promoter described under the Act, as Opponents.

(2) Application under sub-section (5) of section 19 shall be in **Form II**,-

(a) in the case of a Layout Plot, shall be made out as under:

(i) Where the Layout Plot is already sub-divided in proportion to the area constructed of respective building or buildings and is being managed by a separate Legal Entity, the applicant shall make an application for exclusive rights to the buildings and the appropriate portion of land appurtenant thereto and the necessary evidence of sub-division of the layout plot or respective property cards need to be enclosed.

(ii) Where the Societies or the Companies or the Associations or the persons having structures in the Layout Plot have formed or registered an Apex Body or a Federation and such an Apex Body or Federation so formed or registered may apply for a conveyance of the rights, title and the interest of the Promoter in all the buildings or structures and the land in the Layout Plot, common areas and the facilities in its favour.

(iii) Where the Layout Plot is not sub-divided or the Applicants or legal entities do not want to carry out the sub-division or the sub-division is not practical on account of the common areas and the facilities spread over in the layout plot, and if an apex body or a Federation has not been formed or is not intended to be formed, the entities managing their building or buildings, and structure or structures independently, may make joint or separate applications to the Competent Authority to enforce a separate conveyance or a joint conveyance convening the undivided rights, title and interest in the layout plot, common areas and facilities to the respective entities and exclusive rights, title and the interest in the buildings which are being managed by them. The Federation or the Apex Body may be formed only to manage and look after the common areas and the facilities, collect the contributions thereof and spend for the purposes for which the funds are collected without having any legal ownership or lease rights, title or interest in Layout Plot or the common areas and the facilities.

(iv) The Application shall give the complete description of proportionate rights, title and interest of each of the entities managing the constructed building or buildings or the entities to be formed for the buildings to be constructed in the layout plot under a scheme or project of development in a layout plot as approved by the local Authority in accordance with the building bye-laws or development control rules made under any law for the time being in force at the time of commencement of the scheme or the project of development in a layout plot and shall be accompanied by a certificate from a practicing Architect about each entity's entitlement to undivided interest in a layout plot and common areas and facilities therein, or a certified copy of the layout plot, scheme or the project of development as approved by the appropriate Authorities, if available.

(v) Where the application is filed separately by each of the entities, every other entity or person having a building or structure on such Layout Plot, the Land Owner or owners and, Promoters and all other interested parties shall be made the Opponents in the Application. Where the applicant has failed to make any such other interested parties as Opponents, the Competent Authority shall direct the applicant to make all such other interested parties as Opponents or Parties to the application. The Competent Authority shall give a reasonable opportunity of being heard to all such other parties before issuing any certificate of unilateral Conveyance to the Applicant.

(b) Every application shall be accompanied, wherever possible, by a certified copy of the following documents, namely:-

(i) The registered Agreement for Sale entered into with the Promoter or Opponent Party*,

(ii) 7/12 Extract and Village Form No.6 (Mutation entries)*,

(iii) Property card,

(iv) Location Plan,

(v) City Survey Plan or Survey Plan from the Revenue Department,

- (vi) Layout Plot plan approved by the local authority,
- (vii) Architect's certificate about the entitlement of undivided interest in the entire Layout Plot, common areas and the facilities by each of the entities or the structure constructed or to be constructed on such Layout Plot,
- (viii) Latest Title and Search Report for last 30 years from an Advocate,
- (ix) Non-Agricultural permission Order, if any,
- (x) Certificate under the Urban Land Ceiling Act, 1976, if any,
- (xi) Building/ Structure Plan approved by the Appropriate Authority*,
- (xii) Commencement Certificate*,
- (xiii) Completion Certificate*,
- (xiv) Occupation Certificate*,
- (xv) List of Flat Purchasers*
- (xvi) Proof of payment of Stamp Duty,
- (xvii) Proof of Registration, etc. ,
- (xviii) Development Agreement or Power of Attorney or Agreement for Sale executed by the Landlord with the Promoter for development or for transferring the right, title and the interest in the land in favour of the Promoter,
- (xix) Any other land or building related Documents or Papers in support of the Application,
- (xx) Legal notices sent to the Promoter and other interested parties to execute the Conveyance Deed or Declaration as provided under Maharashtra Apartments Ownership Act, 1970 in favour of the applicant or applicants,
- (xxi) Draft Conveyance Deed or Declaration proposed to be executed in favour of the Applicant.

The State Government shall, from time to time, notify the documents which shall be compulsory to be produced at the time of hearing before the Competent Authority.

(c) Every Application under section 19, wherever possible, shall make the persons, firm or the company or its partners or the directors, land owner, mortgagee and every person involved or flat purchasers / members who bring hurdles in the process of conveying the land and the building including all the common areas, construction and the facilities on the said land , in favour of the Society or the Company or the Association or common entity, as the case may be, including the Promoter described under the Act, as Opponents.

10. Scrutiny of Applications and Notice to the Parties. -

(1) Registration of applications.- (a) On receipt of an application, the office of the Competent Authority shall endorse on the application the date of its receipt and shall as soon as possible, examine it and satisfy itself that the person presenting it has authority to do so and that it conforms with all the provisions of the Act and the Rules made thereunder.

(b) If the Competent Authority is satisfied that the application is complete in all respects, it shall cause the application to be registered, as admitted, in the register maintained for the purpose in **Form III**.

(c) If the application is not complete, the Competent Authority may send notice in **Form IV**, to the applicant or applicants to rectify the defects or comply with such requirements, as it may deem fit to conform to all the provisions of the Act, and these Rules, within a period of fifteen days of the receipt of the said notice. The Competent Authority may, for sufficient cause, give further extension of not more than fifteen days to comply with the requirements.

If the above defect in an application is rectified, the Competent Authority shall cause it to be admitted and register the application in the appropriate register.

(2) Maintenance of Registers and Procedure for Issuing Notice, etc..-The Competent Authority shall maintain the Register of applications received by it, in **Form V**.

On admitting the application, the Competent Authority shall, within a period of fifteen days thereof, issue a notice in **Form III** to the opponent or opponents requiring him or them, as the case may be, to file the written statement on the day, date and place as may be specified therein. Such notice shall be served on the opponents by registered post acknowledgment due or under certificate of posting on the last known address.

(3) Appearance of Parties and Consequence of Non- appearance .- (a) On the date fixed as aforesaid, the Opponent shall appear either in person or through his Advocate or his authorized representative before the Competent Authority and shall file a written statement. On the first date of hearing, if the Opponent does not, or the Opponent do not appear, then the competent Authority shall fix another date of hearing, not later than a month from the first date of hearing.

(b) On the second date of hearing, if the Applicant appears and the Opponent or any of the Opponents does not or do not appear, as the case may be, the Competent Authority shall decide the application *ex-parte*:

Provided that, before deciding the application, if the Opponent appears, he shall be given an opportunity of being heard.

(c) If on the date fixed for hearing or on any other day to which the hearing may be adjourned, the Applicant does not appear either in person or by his authorized representative, when application is called for hearing, the Competent Authority may dismiss the application.

(d) If, on the date fixed for hearing or any other day to which the hearing may be adjourned, the Opponent do not appear either in person or through his authorized representative, when the Application is called for hearing, the Competent Authority may decide the same on merits after hearing the Applicant or his authorized representative, if present.

11. Production and inspection of documents. –

(a) The parties shall file the documents referred to in the pleadings at the time of filing the Application and written statement, as the case may be. If either party satisfies the Competent Authority that any document is relevant and the same is in the custody of the opposite party, the Competent Authority may, by an order in writing, direct such party to produce such document on the next date of hearing.

(b) If the party so ordered, fails to produce such documents on the next date of hearing, the Competent Authority may draw adverse inference against such party and hearing of the original application shall not be postponed till filing of such documents or for reasons of such noncompliance of the order.

(c) If the Competent Authority is satisfied that the documents required to be produced, cannot be brought before the Competent Authority for sufficient reasons such as its volume or otherwise, the Competent Authority may allow the opposite party to take inspection of the documents within seven days from the date of order of such inspection.

(d) If the Competent Authority is satisfied that the Opponent had no access to the documents earlier and the filing of an additional statement is necessary, it may allow the filing of such additional statement.

12. Procedure for hearing the Application. –

(1) On receipt of the statement of the Opponent, the Applicant shall prove contents of the Application and also deal with the submissions of the Opponent. The Opponent likewise may file a reply in support of the defense on the next date, if he so desires. No cross-examination of any of the parties shall be permitted.

(2) On receipt of the replies, the Competent Authority shall proceed to hear oral arguments of the parties and after hearing shall close the proceedings for the order.

(3) The Competent Authority shall, within a reasonable time and in any case not later than six months from the date of receipt of the Application after making such enquiry as deemed necessary and after verifying the authenticity of the documents submitted by the parties and after hearing them and giving the parties sufficient opportunities as required under the Act and the principles of natural justice, pass such appropriate order as it deems fit, as provided under the Act.

13. Signing of order and the notice and the official seal:–

(1) Every judgment, order and the certificate of the Competent Authority shall be delivered or supplied or provided to all the concerned parties.

(2) When the hearing of an Application filed under sub-section (5) of section 18 is complete, the Competent Authority shall issue a necessary speaking order in **Form VI** incorporating therein, the say of the Applicant, reply filed by the Opponent, arguments

made by the parties and the decision taken by him with the appropriate reasoning. The above speaking order made by the Competent Authority, wherever appropriate, shall include necessary direction to the Registrar to register the Society after completing the necessary formalities prescribed under Maharashtra Co-operative Societies Act, 1960.

(3) When the hearing of an application filed under sub-section (4) of section 19 is complete, the Competent Authority shall issue necessary speaking order in **Form VII** incorporating therein, the say of the Applicant, replies by the Opponent, arguments made by the parties and the decision taken by him with the appropriate reasoning. The speaking order made by the Competent Authority, wherever appropriate, shall include, a certificate that such society or as the case may be, company or association or persons jointly or severally or as an Apex Body or a Federation is entitled to have a conveyance in his favour and that it is a fit case for enforcing unilateral execution of a conveyance deed conveying the right, title and interest of the Promoter in the land and building in the Applicant's favour and to have it registered with the Sub-Registrar of Assurances in accordance with the Registration Act, 1908(XVI of 1908) and the Sub-Registrar or the concerned appropriate registration officer shall, notwithstanding anything contained in the Registration Act, 1908, register that instrument as deemed conveyance.

(4) The Competent Authority shall have an Official Seal of its own, which shall be kept in the custody of the Competent Authority.

(5) Every judgment, order, certificate and the notice issued under the Act or these Rules shall be signed by the Competent Authority and shall bear the official seal.

(6) All the records of the Competent Authority shall be kept in its custody.

FORM I
(See rule 9 (a))

Model form of Application under section 18 of the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. II of 2014) to direct the concerned Registrar of Co-operative Societies to register the Society.

Before the Competent Authority

Application u/s 18(5) of Maharashtra Housing
(Regulation and Development) Act, 2012

Application No. _____ of 20__

Court-fee stamp of Rupees 1000(Rupees One Thousand only)
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-----Applicant/s

Versus

----- Promoter/s Opponent/s

THE APPLICANT/S ABOVE NAMED STATE AS FOLLOWS:

1. The Applicant is the Chief Promoter of _____ Co-operative Housing Society Ltd (Proposed) having its address at Plot No. _____ (address) _____ (hereinafter referred to as the “**said proposed Society**” for the sake of brevity. The proposed Society has been constructed on the Plot of land bearing No. _____, hissa No. _____ admeasuring _____sq. metres, (hereinafter described as “the **said land**”).
2. The Chief Promoter has been elected in the meeting of persons who have taken flat from the Opponent held on _____ and the copy of the resolution is annexed and marked Exhibit –“A”.
3. The Opponent No.1 is the Builder/ Promoter duly registered as a Private Limited Company/Partnership Firm under Indian Companies/Partnership Act. The Opponent No.2 is the Executive Director/Principal Partner/ legal heir of (for each Opponent some proof for making him/her as Opponent should be given as an evidence- Copy of the duly registered Agreement is annexed hereto as Exhibit No____.)
4. The Applicant states that the building of the Society consists of _____ wings / _____ building known as _____.
(give the description of each building like the number of flats/ shops / garage / row houses etc constructed on the said land. A list of flats, area and name of the purchaser also should be annexed. If the Building is constructed as a scheme or a development project under a Layout Plot as approved by the local authority or the plan approving appropriate authority the same should be mentioned and if there is evidence, the same may be annexed as Exhibit No._____)
5. The Applicant states that the Opponent No.1 and their Authorised Representatives entered into Agreement for Sale of flats/ shops with the individual purchasers of the

flat/ shop and entered into Agreement for Sale of the said flat/shop as required under section 9 of the Maharashtra Housing (Regulation and Development) Act, 2012 and all such Agreements are duly stamped as required under the Bombay Stamp Act, 1958 and also duly registered as required under the Registration Act, 1908.

6. The Opponent No.1 and their authorized representatives have agreed to register the Society or Company or Association of flat purchasers to maintain the building and common areas. The copy of the said Agreement for Sale executed by Opponent No.1 with one of the flat/ shop purchasers MR/ Mrs._____ is enclosed herewith and marked as Exhibit No._____.
7. A list of flat purchasers with the details of flat No., area, stamp duty paid, registration No., Registration fees paid etc is given in Exhibit No._____.
8. The Applicant states that the Applicant had written the 1st letter dated _____ and final Notice dated _____ to the Builder / Developer / Opponent No.1 & 2 bringing to his notice that he/ she / they has/ have failed to register the society as provided under sub-section (1) of section of the Maharashtra Housing (Regulation and Development) Act, 2012 and the rules made thereunder. (Hereto annexed and marked Ex- “ ___ ” is the copy of the said letter/ Notices.)
9. The Applicant further states that the flat owners in their meeting have elected the Applicant as a Chief Promoter and also have authorised the Applicant to register the Society without the co-operation of the Builder / Promoter / Opponent/s
10. The Applicant states that the Opponent No.1 to ___ their Authorised Representatives and servants are denying or not co-operating for registration of the Society. The Applicant is, therefore, entitled to get the direction / order from this Competent Authority for registration of the Society by the flat purchasers of the said building as per the provisions of the Maharashtra Co-operative societies Act, 1960. (Details of the sequence of events and the correspondence may be mentioned by the Applicant here)
11. The Applicant will rely upon a list of documents which is annexed hereto.
12. The Applicant therefore prays :
 - (a) That this Hon’ble Competent Authority be pleased to grant a direction/ order for registration of the Society without the co-operation of the Builder / Promoter/ Opponent and their Authorised Representatives specifically who have failed to comply with sub-section (1) section 18 of the Maharashtra Housing (Regulation and Development) Act, 2012 regarding registration of the Co-operative Society.
 - (b) For costs of the application to be provided.

(c) For such other reliefs as this Hon'ble Competent Authority may deem fit.

Sd/-

Advocate for Applicant

Sd/-

Applicant

VERIFICATION

I, SHRI_____ being the Applicant/ Chief Promoter of proposed Society and authorised Representative above named, residing at_____ floor_____ do hereby state on solemn affirmation that what is stated in the foregoing Application is true to my own knowledge and I believe the same to be true.

Solemnly declared at _____ this _____ 20__.

Before me

Sd/-

Advocate for Applicants

Sd/-

Notary Public

Note:-

1. When an Applicant is a Body Corporate, a copy of the Resolution of its Committee or Board of Directors shall accompany the Application.

2. Every such Application shall be accompanied by certified copies of the following documents,-

(i) The registered Agreement for Sale entered into with the Promoter or Opponent party

(ii) The proof of payments of Stamp Duty and Registration Receipt of at least 60% of the flat purchasers.

(iii) Copies of Legal Notice or letter, if any, sent to the Promoter or Opponent to register the Co-operative Housing Society.

(iv) Application and enclosures should be tendered in such number of sets as required depending on the number of Opponents involved.

(v) Every Application shall invariably make every partner of the Firm or director of the Company or Trustees or any other person having control of the business of Promoter as Opponent

(vi) Land records like 7/12 Extract/ Property card,

(vii) Title and Search Report,

(viii) Non-Agricultural Order

(ix) Building approval Documents like approved Plan copy by the Appropriate Authority,

(x) Commencement Certificate,

(xi) Completion Certificate, or Occupation Certificate,

(xii) List of Flat Purchasers

(xiii) Any other Documents in support of the Application.

3. Wherever possible, Applicant shall make the persons, firm or the company or its partner or the director, land owner, mortgagee and every person involved or flat purchasers or who bring

hurdles in the process of formation of the Society or the Company or the Association as the case may be, including the Promoter prescribed under the Act, as Opponents.

4. Such copies shall be tendered in such number of sets as required depending on the number of Opponents involved.

FORM II
(See rule 9 (b))

Model form of Application under section 19 of the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. II of 2014) to issue a Certificate of ‘fit case’ of Unilateral Conveyance or registration of Declaration in favour of the Applicant.

Before the Competent Authority

Application u/s 19 (4) of Maharashtra Housing
(Regulation and Development) Act, 2012

Application No. _____ of 20__

Court-fee stamp of Rupees 2000(Rupees Two Thousand only)
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-----Applicant/s

Versus

-----Promoter/s Opponent/s

THE APPLICANT/S ABOVE NAMED STATE AS FOLLOWS:

1. The Applicant is a Co-operative Housing Society/ Apex Body/ Federation / member of a Co-operative Housing Society duly registered under the Maharashtra Co-operative Societies Act / member of the Company or member of Apex Body / Federation / Apartment/ Flat Purchaser having registration No._____ having its registered office at Plot No._____(address)_____ (hereinafter referred to as the **“said Society/ Company/ Apex Body/ Federation/ proposed Association/Condominium”** under Maharashtra Apartment Ownership Act, 1970), for the sake of brevity.
2. The Society / Company/ Apex Body/ Federation/ Proposed Association / Condominium is in possession of a Plot of land bearing Survey No._____, Hissa No._____, City Survey No._____ admeasuring _____sq. meters, hereinafter described as the **Suit Premises**. Hereto annexed and marked Exhibit –“A” is the copy of Registration Certificate of the said Society / Company / Apex Body / Federation.
3. The Opponent No.1 is the Construction Company duly registered as a Private Limited Company/Partnership Firm under Indian Companies/Partnership Act. The Opponent No.2 is the Executive Director/Principal Partner/ legal heir of Builder and the Opponent No.3 is the Land Owner / their legal heirs of the Suit Premises and other Defendants are the financier or the earlier Developer or interested in the Suit Premises as_____. (for each Opponent some proof for making him/her as a Opponent should be given as an evidence.)
4. The Applicant states that the building of the Society consists of _____ wings / _____ building known as _____.
(give the description of each building like the number of flats/ shops / garage / row houses etc. constructed on the suit premises. A list of flats, its area, name of the member also should be annexed)

Hereto annexed and marked Ex. “.A-1” is the copy of Rough Sketch of the building at _____PIN __. The Approved Plan duly certified by the Local Authority or appropriate building approval authority should be enclosed as an exhibit. (In case, the same is not available a letter to this effect from Local Authority / Plan Approval Authority should be obtained and a sketch made of the building or the plan attached to Agreement for Sale to be attached.)

5. The Applicant states that the Opponent No.2 and their Authorised Representatives entered into Agreement for Sale of flats/ shops with the individual Purchasers of the flat/ shop and entered into Agreement for Sale of the said flat/shop as required under Section 9 of the Maharashtra Housing (Regulation and Development) Act, 2012 and all such Agreements are duly stamped as required under the Bombay Stamp Act, 1958 and also duly registered as required under the Registration Act, 1908. The Opponent No. 3 and their Authorized Representatives have agreed to transfer and have agreed to convey the Suit Premises with the entire building constructed thereon (hereinafter referred to as “the said Property”) to the duly registered Society within four months of formation of the Society. The copy of the said Agreement for Sale executed with one of the flat / shop purchaser MR / Mrs. _____with the Opponent No 2 is enclosed herewith and marked as Exhibit No. _____, and a list of present members with the details of flat No., Area, Stamp Duty paid, Registration No., Registration fees paid, etc., is given in Exhibit No._____.
6. The Applicant states that the Applicant had written the 1st letter dated _____ and final notice dated _____ to the Chief Promoter / Builder / Developer / Opponent No.1, 2 and 3 and bringing to his/their notice that he/she / they has/have failed to convey the land and building in favour of the Society within 4 months of registration of the Society as provided under Section 19 (1)(2) and (3) of the Maharashtra Housing (Regulation and Development) Act, 2012 and the rules made thereunder. Hereto annexed and marked Ex- “___” is the copy of the said letter/ Notices.)
7. The Applicant further states that the Applicant is by holding regular meetings of the Managing Committee and the General Body and has requested the Defendants and their Authorised Representatives to execute a conveyance in favour of the Society/ Company so that they can get the title to the property and taxes transferred in their name. The Defendants have failed and neglected to execute a conveyance without reasonable cause with a malafide intention to wrongfully withholding the Property and the Defendants have not complied with various requests made by the Applicant so far. (In case of Association / Condominium to be submitted under Maharashtra Apartment Act, 1970 as per the desire of flat purchasers, the fact should be mentioned and the neglect of the Promoter in complying with the provisions of the law should be brought out here).

8. The Applicant states that the Opponent No.1 to ___ their agents and servants are denying or interested in denying the right, title and interest in the said land and the building in favour of the Applicant which they are legally entitled to have and enjoy as provided under the Act and the Rules.
9. The Applicant is, therefore, entitled to have a Certificate issued by the Competent Authority for unilateral Conveyance in respect of the suit premises in favour of the applicant Society/ Company or get the direction for the land and the building submitted under the Maharashtra Apartment Ownership Act, 1970 by registering the Declaration as per sub-section (5) of section 19 of the Maharashtra Housing (Regulation and Development) Act, 2012.
10. Accordingly this Competent Authority be pleased to issue a Certificate of entitlement of Unilateral Conveyance of land admeasuring _____sq. metres as specifically set out in (the Property Registration Card) the copy of the Agreement dated _____ along with building situated at Plot No. _____, bearing Survey No. _____ Hissa No. _____ at _____gunta, _____ in _____(city) in favour of the Applicant as the same falls within jurisdiction of this Hon'ble Competent Authority. (In case the building is in a Layout Plot, the entire description of the Layout Plot such as area, common areas and the facilities, built up area of each building/ structure etc. and how the Conveyance of the Layout Plot, common areas and the facilities required to be conveyed to the applicant or other interested entities or persons in the Layout Plot or as a Apex Body or the Federation or as Declaration. The documentary evidence like Layout Plot approved by the Planning Authority / Local Authority / Approved Building Plan by the appropriate authority, Architect Certificate etc as provided in the Rules be annexed as Exhibit).
11. The Applicant will rely upon a list of documents which is annexed hereto.
12. The Applicant therefore prays that :
 - (a) This Hon'ble Competent Authority be pleased to grant a Certificate of Unilateral Conveyance / Declaration in respect of Suit Premises along with structure standing thereon in favour of the Applicant against the Defendants No.1, 2 and 3 and their agents specifically who have failed to comply with Section 19 of the Maharashtra Housing (Regulation and Development) Act,2012 regarding Conveyance of land and building in favour of the Society.
 - (b) This Hon'ble Competent Authority be pleased to appoint an Authorised Officer to facilitate execution and registration of Conveyance Deed or Declaration in favour of the Applicant / appropriate legal body on behalf and in place of Opponents who have failed to discharge their legal obligations provided under the Act and the Rules.
 - (c) For costs of the application to be provided.
 - (d) For such other reliefs as this Hon'ble Competent authority may deem fit.

Advocate for Applicant

Applicant

VERIFICATION

I, SHRI _____ member of the Applicant and authorised Representative above named, residing at _____ floor _____ Co-operative Housing Society Ltd. _____ do hereby state on solemn affirmation that what is stated in the foregoing Application is true to my own knowledge and I believe the same to be true.

Solemnly declared at _____

This _____ 20__.

Sd/-

Before me

Sd/-

Sd/-

Advocate/Authorised Representative for Applicants

Notary Public

Note:-

1. When an Applicant is a body corporate, a copy of the Resolution of its Committee or Board of Directors shall accompany the Application.
2. Every Application shall accompany, wherever possible, the certified copy of the following documents:
 1. The registered Agreement for Sale entered into with the promoter/opponent party
 2. 7/12 Extract and Village form No.6 (Mutation entries)
 3. Property card,
 4. Location Plan
 5. City Survey Plan or Survey Plan from the Revenue Department.
 6. Layout Plot plan approved by the Local Authority
 7. Architect Certificate about the entitlement of undivided interest in the entire Layout Plot, common areas and the facilities by each of the entity or the structure constructed or to be constructed on such Layout Plot.
 8. Latest Title and Search Report for last 30 years from an Advocate,
 9. Non-Agricultural Order
 10. Certificate under Urban Land Ceiling Act, 1976
 11. Building/ Structure Plan approved by the Appropriate Authority,
 12. Commencement Certificate,
 13. Completion Certificate,
 14. Occupation Certificate,
 15. List of Flat Purchasers
 16. Proof of payment of Stamp Duty
 17. Proof of Registration, etc. ,
 18. Development Agreement or Power of Attorney or Agreement for Sale executed by the Landlord with the Promoter for development or for transferring the right, title and the interest in the land in favour of the Promoter.
 19. Any other land or building related documents papers in support of the Application.

20. Legal notices sent to the Promoter and other interested parties to execute the Conveyance Deed or Declaration as provided under Maharashtra Apartments Act, 1970 in favour of the Applicant/s.
 21. Draft Conveyance Deed / Declaration proposed to be Executed and Registered.
-
3. Every Application under Section 19, wherever possible, shall make the persons, Firm or the Company or its partners or the directors, land owner, mortgagee and every person involved or flat purchasers, member or anyone who brings hurdles in the process of conveying the land and the building in favour of the Society or the Company or the Association or common entity, as the case may be, including the Promoter prescribed under the Act, as Opponents.
 4. Such copies shall be tendered in such number of sets as required depending on the number of Opponents involved.

Form III

(See rule 10(I)(b))

Form of Register of applications received in the office of the Competent Authority under sections 18 and 19 of the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. II of 2014).

Sr. No	Date of receipt & mode of receipt & case Number	Name & Address of the Applicant/ and their pleaders or agents, if any	Name & Address of the Applicant/ Opponents and their pleaders or agents, if any	Section under which application is filed	Date on which applicant was directed to rectify the defects and date of compliance	Dates of hearing and manner of service of notice	Date of disposal of the application / order passed/ certificate issued
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

FORM NO IV

(See rule 10(1) (c))

Form of Notice to the Applicant to comply with the requirements in the Application filed under sections 18 and 19 of the Act.

Before the Competent Authority

Application u/s 18(5) / 19(4) of the Maharashtra Housing (Regulations and Development) Act, 2012

Application No. _____ of 20__

Applicant/s

Versus

Promoter/s Opponent/s

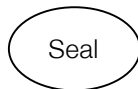
To,

The above named Applicant,

1. You have filed an Application for Order under Section 18(5) / 19(4) of the Maharashtra Housing (Regulations and Development) Act, 2012 (hereinafter referred to as “the Act”).
2. It does not comply with provisions of the Act, and the Rules and notifications made thereunder in the following respects: --
 - (a) _____
 - (b) _____

3. You are hereby required to remedy the defects within 15 days of the receipt of this notice by you. If you fail to comply with the requirements as mentioned above within the allowed time period, your Application will be rejected and filed accordingly and no claim or request what so ever will be entertained thereafter.

Given under my hand and the seal of the Competent Authority.



By order,

Competent Authority

Dated the 20.....

REQUIREMENTS/ DEFECTS

- (1) It does not specify the name and address of the Applicant and also those of the Respondent/Opponent as required under the Rules
- (2) It does not bear Court Fee stamp of Rs. ____/- as required under Rules.
- (3) (a) No Vakalatnama is filed though the memo is signed by the Advocate.
(b) The Vakalatnama does not bear Court Fee stamp of Rs. ____/-
(c) The Vakalatnama is not signed by all Applicants.

- (4) A certified copy of the Agreement for Sale executed with the Promoter / Builder is not filed.
- (5) The uncertified copies of Sr. No. ___above are not filed as per Rules.
- (6) The Application is not verified and notarised as required under Rules.
- (7) Additional copies of _____ Applications with annexures are required to be sent to the all the Opponents / Promoter as per Rules.
- (8) A Resolution of the Managing Committee/Board of Directors authorising the Applicant on behalf of the Society or the Company or the group of persons or an extract of the bye-laws authorising the Applicant to sue or be sued on behalf of the Society is not filed.
- (9) (a) The Appeal/Application suffers from Defect No. ____.

(b) The Application complies with all the requirements under the Rules. It is registered as Application under Section/Rule ____ of the Act/Rules. Letter or requisition calling for relevant record put for signature.

Officer of the Competent Authority

FORM NO V
(See rule 10 (2))

Form of Notice to the concerned parties.

Before the Competent Authority

Application u/s 18(5) / 19(4) of the Maharashtra Housing
(Regulations and Development) Act, 2012

Application No. _____ of 20__

----- Applicant/s

Versus

-----Promoter/s Opponent/s

To,

The above named Applicant/s and address

The Promoter/Opponent/s and address

1. Take notice that the above Application has been filed by the Application u/s 18(5) / 19(4) of the Maharashtra Housing (Regulations and Development) Act,2012 and under the applicable Rules against the Promoter/ Opponents and the entire Application with enclosures are attached herewith.
2. The Promoter/Opponent/s is/are hereby called upon to file his/their written reply on _____at _____time at the office of Competent Authority as his/ their defence in person or through his Advocate or his authorised Representative and the Applicant is advised to collect the reply, if any filed.
3. Considering the written reply received/ not received, the final hearing/ oral argument in the above case has been fixed on _____ at _____.
4. If you do not file the reply or do not appear on the above date or dates, personally or through the duly appointed representative, the matter will be heard and decided ex-parte
5. Given under my hand and the seal of the Competent Authority.

By order,



Competent Authority.

Dated the 20.....

FORM NO VI

(See rule 13 (b))

Model Form of Judgment or Order under sub-section (5) of section 18 of the Act

Before the Competent Authority

Application u/s 18 (5) of Maharashtra Housing

(Regulations and Development) Act, 2012

Application No. _____ of 20__

----- Applicant/s

Versus

-----Promoter/s Opponent/s

1. Whereas the Applicant/s Mr. _____ and Mr./ Mrs. _____ is / are the flat purchasers in a building/ project developed by M/s _____ / Mr. _____ the Builder/Promoter as provided under Maharashtra Housing (Regulations and Development) Act, 2012 (hereinafter referred to as the said Act)
2. The Applicant has been elected as the Chief Promoter by the flat purchasers of the said building/s in their meeting held on _____.
3. The Applicant says that the Promoter has not taken any initiative for formation of the Society in spite of many oral and written notices sent to the Promoter
4. The Promoter had collected Rs, _____ towards the Society formation charges, Share money and the Entrance fees as per the clause No ____ of the Agreement for Sale executed and registered under Section 4 of the Act with the flat purchasers from every flat purchasers and the aggregate amount collected under this account amounted to Rs _____.
5. The Promoter has not been maintaining the building and other common services in spite of the fact that he had collected or is collecting maintenance charges from every flat purchaser since the flat purchasers have occupied the flats.
6. There are _____ number of flats/ shops / units in the building. Out of this _____ number of flats/ shops / units have already been sold and as a proof of such sale, copies of the Agreements, the Registration Receipt and the Stamp Duty of such flat purchasers have been produced before me.

7. The Applicant/ Applicant's learned Counsel Mr._____ states that _____ (complete written and oral arguments of the Applicant / learned Counsel of the Applicant to be mentioned here).
8. The Promoter / Opponent has personally/ through authorised representative Mr._____ appeared from time to time and filed the written reply as a defence against the Application filed by the Applicant/s.
9. The Promoter/ Opponent /the learned Counsel for the Promoter/ Opponent states that _____ (Complete written and oral arguments of the Promoter/ Opponent/s or their learned Counsel to be mentioned here)
10. Considering the written statements, oral as well as written arguments of the both the parties and their learned Counsel, I have to conclude that _____ the submission made by Applicant / Promoter / Opponent is not tenable and accordingly, the Application filed by the Applicant does not have any merit / the contention of the Opponent / Promoter is not tenable and I have come to the decision that being the Promoter, he is duty bound to register the Society as per the provisions of the Act and also the Rules within 4 months from the date of sale of minimum number of flats in the building/s and also as provided in the individual Agreements registered and executed with the individual flat purchasers and hence I pass the following order.

Order

I, Mr./ Mrs. _____, Competent Authority appointed under Section 18(5) of Maharashtra Housing (Regulations and Development) Act, 2012 by virtue of the powers vested in me under the said Act and the Rules made thereunder, I hereby direct the Deputy Registrar/ Assistant Register , _____Ward/ Taluka, Co-operative Societies, _____, District : _____/ order to register the Society under Section 9 of the Maharashtra Co-operative Societies Act, 1960 and the Rules made thereunder after completing all the required formalities.

Given under my hand and the seal of the Competent Authority.



By order,

Competent Authority.

Date:

Issued to:

1. Applicant
2. Opponent / Promoter

3. The Deputy/ Assistant Registrar, ____ Ward/Taluka, C.S. with a direction to register the society as per the Maharashtra Co-operative Societies Act, 1960 after completing all the required formalities.
4. Notice Board

FORM NO VII

(See rule 13 (c))

Model Form of Judgment, Certificate of Unilateral conveyance and the Order u/s 19 of the Act

Before the Competent Authority

Application u/s 19 of Maharashtra Housing (Regulations and Development) Act, 2012.

Application No. _____ of 20__

-----Applicant/s

Versus

----- Promoter/s / Opponent/s

1. Whereas the Applicant/s Mr _____ and Mr/ Mrs _____ is / are the flat purchasers in a building/ project developed by M/s _____ / Mr _____ the builder/ Promoter as provided under Maharashtra Housing (Regulations and Development) Act, 2012 (hereinafter referred to as the said Act)
2. The Applicant has been elected as the chief promoter by the flat purchasers of the said building/s in their meeting held on _____ and was authorised to file an application under section 19(4) of the Act, to get the declaration submitted/ registered under Maharashtra Apartment Ownership Act, 1970 for management of the building/s. (if Applicable)
3. The Applicant says that the Promoter has not taken any initiative or steps for preparation and submission of the Declaration under Maharashtra Apartment Ownership Act, 1970 in spite of many oral and written notice send to the promoter. (if Applicable)
4. The Promoter had collected Rs, _____ towards the society formation charges, share money and the entrance fees, conveyance charges, declaration submission charges as per the clause No ___ of the agreement for sale executed and registered under section 9 of the Act with the flat purchasers and the aggregate amount collected under this account amounts to Rs _____.
5. Promoter has not maintained the building and other common services in spite of the fact that he had collected or is collecting maintenance charges from the flat purchasers since the flat purchasers have occupied the flats.
6. There are _____ number of flats/ shops / units in the building. Out of this _____ number of flats/ shops / units have already been sold and as a proof of such sale, copy of the agreement, the registration receipt and the stamp duty of such flat purchasers have been produced before me.
7. The Applicant is the secretary / Chairman / Manager of _____ Co-operative Housing society and has been authorised by the Managing Committee / General body resolution passed on _____ to obtain the conveyance of land and the building in favour of the society or approaching the promoter/ Builder or by making an application under section 19 of the Act.
8. The Applicant/s states that the promoter / Opponent/s / Land owner have failed to execute the conveyance of land and the building and the proportionate share / interest in the building/s in

favour of the Applicant and have not acted upon the same in spite of oral and written notice issued to them to this effect.

9. The Applicant/ Applicant learned counsel Mr._____ states that _____(complete written and oral arguments of the Applicant / learned counsel of the Applicant to be mentioned here).
10. The Promoter / Opponent / Land owner has personally / through authorized representative Mr_____ appeared from time to time and filed the written reply as a defence against the application filed by the Applicant/s .
11. The Promoter/ Opponent / Land owners and the learned council for the promoter/ Opponent / Land owner states that _____(Complete written and oral arguments of the promoter/ opponent/s or their learned council to be mentioned here)
12. Considering the written statements, oral as well as written arguments of the both the parties and their learned counsel, I have to conclude that _____ the submission made by the Applicant is not tenable and accordingly, the application filed by the Applicant does not have any merit and hence the application is rejected and I pass the following order:

Order:

- (a) **The Application is hereby rejected.**
- (b) **There is no order as to costs.**

Or

12. Considering the written statements, oral as well as written arguments of the both the parties and their learned counsel, I have to conclude that the submission made by the Opponent / Promoter is not tenable and I have come to the decision that being the Promoter, he is duty bound subject to his right to dispose of the remaining flats, if any, to execute the conveyance within four months from the date on which the co-operative society or the company is registered or, as the case may be, the association of the flat purchasers or unit holders is duly constituted. When a Promoter has submitted his property to the provisions of the Maharashtra Apartment Ownership Act, 1970 by executing and registering a declaration as required by section 2 of that Act, and no period for conveying the title of the Promoter in respect of an apartment to each apartment taker is agreed upon, the Promoter shall execute the conveyance or deed of apartment in favour of each apartment taker within four months from the date on which, the apartment taker has entered into possession of his apartment and hence I pass the following order.

CERTIFICATE AND THE ORDER (If Applicable)

1. I, Mr/ Mrs _____ , Competent Authority appointed under section 21 of Maharashtra Housing (Regulations and Development) Act, 2012 and the powers vested in me under section 19(5) of the said Act and the Rules made thereunder issue the unilateral conveyance certificate as under(if applicable)..

2. I hereby
certify that the applicant / society / Apex Body / Federation is entitled to have unilateral

conveyance of land admeasuring _____ bearing city survey No_____ Hissa No._____ Village _____ District _____(hereinafter referred to as the said land and the building admeasuring _____ Square feet constructed on the said land and is entitle to get the unilateral deemed conveyance deed prepared and executed and registered as provided under the Rules.

3.As per section 19(6) of the Act, I also direct the Sub-Registrar or the concerned appropriate Registration Officer appointed under the Registration Act, 1908 notwithstanding anything contained in the Registration Act, 1908, to register the instrument as deemed conveyance in favour of the applicant/ society / Association / Federation / Apex Body.

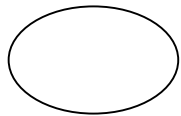
Or

2.I hereby certify that the applicant /s / Association is entitled to have unilateral conveyance of land admeasuring _____ bearing city survey No_____ Hissa No._____ Village _____ District _____(hereinafter referred to as the said land and the building admeasuring _____ Square feet constructed on the said land and is entitled to get the Declaration prepared and submit the same under Maharashtra Apartment Ownership Act, 1970 and register with the concerned sub-registrar.

3. As per section 19(6) of the Act, I also direct the Sub-Registrar or the concerned appropriate Registration Officer appointed under the Registration Act, 1908 notwithstanding anything contained in the Registration Act, 1908, to register the instrument as a deemed conveyance in favour of the applicant/ society / Association / Federation / Apex Body.

Given under my hand and the seal of the Competent Authority.

By order,



Competent Authority.

Date:

Issued to:

1. The applicant
2. Opponent / Promoter
3. The concerned Sub-Registrar with a direction to register the unilateral conveyance deed / Declaration submitted under Maharashtra Apartment Ownership Act, 1970 after completing all the required formalities.
4. Notice Board

By order and in the name of the Governor of Maharashtra,

(Debashish Chakrabarty)
Principal Secretary to Government.