

MHCO120002702025

**IN THE COURT OF JUDGE, CO-OPERATIVE COURT****NO.2, PUNE.****(Presided over by Shri. Hansraj K. Wankar)****Dispute No:- 240/2025****Rahul Laxman Ganbote****And Oth.****..... Disputants****V/s****Shreeram Jyoti Cooperative****Housing Society Ltd. And Oth.****..... Opponents****Counsel For Disputants. :-- Abhay S. Ajnadkar.****Counsel For Opponents. :-- Mrudula P. Chitale.****Order Below Exh.5****(Passed on 10/08/2026)**

Disputant has filed this application for temporary injunction in the dispute for Declaration and Injunction. By this application disputant prayed as under :--

- (a) to restrain opponent no.1 to 9 temporarily till decision of this dispute from executing the memorandum of understanding in respect of re-development and from entering into and executing the development agreement

with Rui Universal Realities LLP or any other developer unless and until the additional area to be given to the disputant is decided and unless and until the developer furnishes the bank guarantee.

- (b) to restrain opponents temporarily till decision of the dispute from executing, operating and implementing the resolution no.2, 3 and 4 thereby appointing Harshal Kavadikar- Architect as project management consultant for the re-development project of opponent society.
- (c) To restrain opponents temporarily till decision of the dispute from executing, operating and implementing the resolution no.1 to 4 passed in the special general meeting dated 26/01/2025.
- (d) To restrain opponents temporarily till decision of the dispute from executing, operating and implementing the resolution no.1 passed in the special general meeting dated 17/08/2025 thereby selecting Rui universal Realities LLP as developer for re-development of opponent society.
- (e) To restrain opponents temporarily till decision of the dispute from executing, operating and implementing all the resolution passed in the managing committee meeting dated 14/02/2025 and 30/07/2025.



Nut shell in the application are as under :--

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1. Opponent No. 1 is a Co-operative Housing Society registered under the provisions of Maharashtra Co-op Societies Act, 1960. The Opponent No. 1 society has its bye-

laws and is expected to work in the best interest of its members. The Opponent Nos. 2 and 3 are the Chairman and secretary of the Opponent No. 1 society. Opponent Nos. 4 to 9 are the Managing Committee members of the Opponent No. 1 society. Disputants are the members of the Opponent No. 1 society.

2. The property bearing Survey No. S. NO. 20, sub plot No. 48, C.T.S. No. 1110, Gulwani Maharaj Path, Erandawane, Pune - 411 004, admeasuring 1689.20 Sq. m, situated within the limits of Pune Municipal Corporation, Revenue village Kothrud, Tal - Haveli, Dist - Pune belongs to Opponent No. 1 society. Opponent society consists of total 39 members including the Disputants.

3. It is contended in the application that Opponent No. 1 society called Special General Body Meeting on 20/07/2024 by issuing agenda notice dated 6/7/224 and it was decided to carry out re-development of the society. But in the very meeting the society appointed project management consultant / architect, which is not legal and proper. According to disputants, in the said meeting the society firstly ought to have passed a resolution to call for the quotations from Project Management consultant / architect. But no such resolution is passed by the Opponent society till date. In the minutes it is stated that the managing committee had already called for quotation from 5 consultants. But without passing any resolution to that effect, the managing committee had no



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any authority and right to call for the quotations from project management consultants.

4. It is further contended in the application that no information about all the quotations were given to the members. It seems that it was pre planned and pre decided to appoint architect Harshal Kavadikar from Nilay Sarathi and Adv. Kiran kabra. Opponent Nos. 2 to 9 interviewed the persons/firms who had sent quotation for working as Architect / PMC and from those the Opponents have shortlisted 2 quotations. According to disputants, Opponent Nos. 2 to 9 do not have any authority to do so. Therefore, process of appointment of Architect/Project Management Consultant (PMC) was not transparent at all. Opponents have violated G.R. dated 4/7/2019 and have acted illegally. Therefore the appointment of project management consultant - Mr. Harshal Kawadikar from Nilay Sarathi and Adv. Kiran Kabra is illegal improper and against the provisions of law and in contradiction to the G. R. Dated 4/7/2019 and same is without any resolution. There is neither proposer nor seconder to any of the so called resolutions shown to have passed in the said Meeting. Thus in the absence of proposer and seconder the so called resolution cannot be said to be valid, legal and proper resolution. Therefore, all the so called resolutions Nos. 2, 3 and 4 shown to have passed in the SGM dated 20/7/2024 are illegal, null and void and are liable to quash and set aside. According to disputants, Opponent No 1 to 9 are again trying to carry out the Re-development process as per their whims



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and wishes and by violating the rules and regulation and the G.R. dated 4/7/2019.

5. It is further contended in the application that earlier also in the year 2018 Opponent Nos. 1 to 3 were carrying on the development process illegally and as per their whims and wishes. Therefore the disputants had to filed a Dispute bearing No. 80/2023 before the Hon'ble Judge Co-op Court No. 2. Pune At Pune for Declaration and injunction. In the said dispute the Hon'ble Court was pleased to pass order on Application for Temporary Injunction below Exh. 5 & Exh.19 on 9/2/2024 and restrained Opponent Nos. 1 to 3 by an order of temporary injunction from implementing and executing the resolutions passed in AGM/SGM dated 13/08/2018, 04/06/2021 and 27/11/2022 till disposal of this Dispute. Thus considering this fact, if at all opponent Nos. 1 to 3 intend to restart the redevelopment process, then firstly all the resolutions regarding redevelopment passed are required to be cancelled and then only they can initiate and restart the fresh redevelopment process.



6. It is further contended in the application that Opponents have admitted that while preparing feasibility Report, the Area Statement from the earlier tender is taken into consideration and the area statement of Flats / shops certified by earlier Architect Mr. Hemant Mahajan is considered while preparing the feasibility Report. This act of the Architect Mr. kavadikar is wrong, illegal and detrimental to the interest of the members of the society. According to disputants, earlier

data, area statement or any other detail cannot be taken into consideration because the Process of appointing the Architect was illegal, improper and in violations of the G. R. Dated 4/7/2019 and because the said appoint of architect was illegal, all the acts done by the Architect are also illegal. If the redevelopment process is to be restarted, then the said process has been restarted by following the G.R. dated 4/7/2019 and in accordance with law.

7. It is further contended in the application that the illegally appointed PMC did not take any actual measurement of the Flats & the shops in the society till date. Thus the feasibility report is prepared without taking actual measurement of the flats and the shops. PMC has informed the disputants vide letter dated 16/1/2025 that while preparing feasibility Report the Area statement prepared at the time of previous tender and certified by the Architect Hemant Mahajan - appointed earlier illegally, has been considered. So the newly appointed PMC ought not to have relied on the Area statement prepared by the Architect Hemant Mahajan. There are many discrepancies in areas mentioned in the feasibility report. The instance of the same are as under: -

Sr. No.	Flat/Shop No.	Area Sanctioned plan	inArea Tender Draft	inArea Feasibility Report	in
1.	Shop no. 8	218	252	252	
2.	Shop no. 9	218	250	250	
3.	Shop no. 10	218	220	220	
4.	Shop no. 11	183	220	220	



5.	Shop no. 12	163	176	163
6.	Flat no. 1	281.7	301	332
7.	Flat no. 2	330	333	351
8.	Flat no. 6	235	269	278
9.	Flat no. 7	477	731	492
10.	Flat no. 8	902	301	759
11.	Flat no. 9	725	820	880
12.	Flat no. 11	774.33	547	411
13.	Flat no. 12	430.8	529	749
14.	Flat no. 18	634.6	731	758
15.	Flat no. 3	693.27	642	686
16.	Flat no. 22	569	529	566
17.	Flat no. 25	693.27	645	688

From the above table it can be seen that the area of flats and shops are written wrongly in the feasibility report. The area of Chairman, secretary and the officer bearers of the society are purposely show to be much more then the actual area as mention in the plan. This is mainly because the Chairman, secretary and the other committee members were keen to select the builder Rui Universal Realtors LLP. But the area of the Disputants and few other flat owners are shown to be less then the actual area in the plan.



It is further contended in the application that Disputants have got the flat areas measured from the Government panel surveyor recommended by Mr. Kavadikar mainly because the PMC refused to measure the flat areas of the disputants. It is further submitted that the areas are considered as per the whims and wishes of the Opponent Nos. 2 to 9 and it seems that the PMC has become a puppet in the hands of the Chairman, secretary and the other committee members of the society. Therefore, the entire feasibility is wrong. All the areas

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of flats and shops mentioned in the feasibility report are wrong and false.

9. It is further contended in the application that as per feasibility report the project cost shown is Rs. 70, 44,65,370/-, however as on the dated as per the calculations made by the Disputants is Rs, 145 Crores. The said calculation is made as per the rates considered by the PMC. According to disputants, wrong and false figures are shown to the members. Thus the cost Analysis made by the PC in the feasibility report is false and wrong. The disputants most respectfully submit that the actual area of the plot is 18,512 sq. ft i.e, 17 Guntha, whereas the feasibility report is prepared by considering wrong plot area ie, 18.182.55sq.ft ie., 1689.20 sq.mts. The area mentioned in the Property card is less then the actual plot area and therefore it was necessary to correct the property card first and then get the feasibility. Therefore, on the basis of said feasibility report, Re-Development of the building in the society cannot be started.

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10. It is further contended in the application that most of the committee members out Opponent Nos. 2 to 9 owns shop in the society in their name and therefore the Disputants have initially included the fact in the tender about giving 3 lakh betterment charges to the flat owners and giving Rs. 25 lakhs as betterment charges to the shop keepers without taking any approval from all the members of society in the AGM/SGM. There seems to be vast difference between the betterment amount being given to flat owners and amount being given to



shop keepers. Opponent Nos. 1 to 9 have not given any explanation as to on what basis the said betterment charge are decide by them. According to disputants, the Opponent Nos. 1 to 9 do not have any right and authority to decide the quantum of betterment charges. The issue as to how much amount of betterment charges are to be taken from the builder was never discussed in any of the meetings of the society nor any such resolution has been passed till date to demand Rs. 25 lacs as betterment charges for shop owners and Rs. 3 lacs as betterment charges for the Flat owners from the Developer builder who intends to carry out the re-development work of the society. According to disputants, the shop owner and the Flat owners including the Disputants are on same footings as members of the Opponent No. 1 and cannot discriminate. Therefore demand of Rs. 25 lacs betterment charges for shop owners and a very meager amount of Rs. 3 lacs for flat owner is illegal, improper and against the co-operative principles and against the guidelines as contemplated in the G.R. dated 4/7/2019.



It is further contended in the application that the extra area which the Developer -builder has agreed to give is also very much less than the extra area given by other builders in the vicinity area. Disputants had already obtained another feasibility report of the opponent No. 1 society from another Architect - Mr. Kalpaadihee Archhipreneur on 27/10/2023. As per the said Feasibility, the extra area to be given to the members is much more than the offer given by the Developer - Builder and which varies from 55% to 96%. Opponent No. 1

to 9 are accepting the offer of 45% extra area is illegal, improper and is detrimental to the interest of the society as well as its members. The plot area is 18,513 sq. ft., i.e., 17 Gunthas, however PMC while preparing feasibility report the plot area is taken as 18,182 sq. ft. The feasibility report itself is based on wrong area and therefore the feasibility report is wrong and illegal on the face of it.

12. It is further contended in the application that the area of disputants flats mentioned in the feasibility report are not correct. This fact was brought to the notice and also objected for same and insisted to take actual measurement of the flats. But Opponents and the Architect and the PMC refused to take measurement and informed and recommended to get the measurements done through Government Surveyor - Mr. Joglekar for which the disputants were required to pay Rs. 1500/- for each flat. Accordingly the disputants got the measurements done through Mr. Joglekar and there found difference in the measurements but inspite of the same, the actual increased measurement were not included in the feasibility report. By not doing so you the Opponents have violated the resolution No. 3.



13. It is further contended in the application that the tendering process is also illegal and improper. 9 tenders were received. As per the Tender Notice published, the last date of submitting tender was 19/04/2025. However the Opponent Nos. 1 to 9 without having any authority have extended the last date submitting tenders to 23/04/2025 till 6.00 pm.

According to disputants, SGM was required to be called for with the agenda of extending last date of submitting tenders. However Opponent Nos. 1 to 9 failed to call the SGM. Therefore, the act of extending time from 19th April to 23rd April is illegal and against the provisions of law. Thus those tenders which were submitted after 19th April 2025 should not be accepted at all.

14. It is further contended in the application that on 26/1/2025 "Sabhasad Melava was held at Radhika Bungalow. The Notice of the said "Sabhasad Melava Notice" was issued on 16/01/2025. According to disputants, "Sabhasad Melava" cannot be said to be Special General Meeting of the society. According to disputants, Opponents have tried to passed resolutions under the guise of "Sabhasad Melava". It is not correct to say that the PMC submitted corrected Feasibility report in the said "Sabhasad Melava". In fact it was the first time that Mr. Kavdikar submitted feasibility report which was based on wrong areas and wrong calculations. The feasibility report was never presented in front of all the members in any of the meetings nor approved by the members of the society by passing a resolution to that effect.



15. It is further contended in the application that the Final Feasibility Report was handed over to the Managing Committee by the PMC and in the Managing Committee meeting dated 14/2/2025 the said final feasibility report was accepted and approve by the all the managing committee members. According to disputants, Opponents ought to have

placed the final feasibility report in the SGM before all the members and then ought to have taken acceptance and approval from the members of the society. There was no any agenda notice of the said managing meeting dated 14/2/2025. More over there were no any proposer and seconder to any of the resolutions passed in the said meeting. The act of accepting and approving feasibility report by passing illegal resolution in the managing committee meeting is illegal, improper and against the provisions of law and against the G.R. dated 4/7/2019.

16. It is further contended in the application that the Tender document was also not approved in SGM by placing the same before all the members of the society. Tender document also seems to have been approved in the Managing Committee Meeting dated 14/2/2025. Thereafter SGM was called on 16/2/2025. In the meeting dated 16/2/2025, the PMC Mr. Navadikar was not present. The Chairman - Opponent No. 2 merely informed that required changes are carried out, but not pointed out as to what changes are carried out in the feasibility report.

17. It is further contended in the application that, the tender document required changes are made as per the suggestions given by the members of the society. The disputants most respectfully submit that no any rectified tender document was furnished to disputants and to the other members of the society, so that the members get to know as to what changes are made in the tender document. However by keeping all the



members and the disputants in dark, therefore it was not possible for any of the member to approve the tender document. The said resolution of approving tender document is shown to have been passed. In fact no such resolution was ever passed in the said meeting. The term sheet seems to have been prepared by the Opponents, however till today no any term sheet was ever given to the disputants as well as the members of the society. Therefore the disputants and the members of the society are not aware about the terms mentioned in the term sheet. Thus till today the disputants and the members of the society do not have any knowledge about the terms such as quantum of rent to be given, amount of Corpus fund, how much betterment charges will be given. etc., As the disputants and the members were unaware of the term sheet, the said resolution No. 4 was never passed, however the same is illegally shown to have been passed.



It is further contended in the application that the said meeting seems to have scheduled of line, however about 5 members are show to have voted online, which is illegal and against the provisions of law. It is submitted that when the meeting is conducted of line no member can be allowed to participate in the meeting online. Thus the votes of persons if any who are shown to have attended the meeting online and be considered as valid and cannot be counted. Thus the entire Meeting dated 16/2/2025 was held and conducted illegally and therefore the said meeting dated 16/2/2025 is required to be declared as illegal null and void and so also all the

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resolutions passed in the said meeting dated 16/2/2025 are also illegal, null and void.

19. It is further contended in the application that after the said illegally held and conducted meeting dated 16/2/2025, the disputants immediately issued letter dated 17/2/2025 and pointed out all the Begalities committed by the Opponents and also had sent similar mail to the opponent society. But opponents did not take cognizance of the said letter and continued to act illegal as per their whims and wishes.

20. It is further contended in the application that thereafter on 26/3/2025 tenders were published in the daily New paper "Dainik Prabhat ". But no any resolution was ever passed by the society to publish tender in the new paper. Thus the said act of publishing the tender in the new paper is illegal, improper. The tendering process is also illegal and improper. According to disputants, open tendering was not done by the Opponents, in fact the tendering was conditional tendering whereby pre terms and conditions were included in the tender. The tendering process was not transparent at all.

21. It is further contended in the application the tenders which were received by the Opponent No. 1 society was never put forth before the members of the society. The members of the society and the disputants were not aware of any of the tenders received by the society. Opponents ought to have placed all the tenders received by the Opponent No. 1 society in the SGM for the said purpose. Earlier it was



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decided that the tender forms will be given on payment of Rs. 15,000/- as decided by the PMC, however the opponent Nos.1 to 9 increased the said form amount to Rs. 25,000/- without the approval of the members by discussing the same in the SGM. Opponent Nos. 1 to 9 and the PMC opened the tenders received and they themselves rejected the 5 tenders without placing the same before the disputants and the members by calling SGM and selected the 3 tenders and were called upon to give their respective presentations on 12/7/2025. Presentation given by M/s Rui universal Realities LLP. was not accurate and proper. Opponent nos. 1 to 9 wanted Rui Universal Realities LLP., therefore PMC called Revised quotations from all the three builders which were selected by the committee. Thereafter the comparative statement was shown to the members, however wrong offer of SK Fortune builder was mentioned in the comparative chart. SK Fortune gave offer of 45% additional area and betterment charge Rs. 5 lacs to Flat owners and Rs. 25 lacs to Shop Owners. Disputant immediately on 13/7/2025 issued a letter to the Opponent society about the irregularities occurred on 12/7/2025. After seeing the comparative chart, the disputants raised the said objection with PMC as to why SK fortune new offer is not considered especially when the new offer given was of 45% and 5 lacs to float owners. According to disputants, SK fortune Developer builder was far better then the other 2 builder developer as the construction quality given by SK fortune is of very good quality. However the Opponent nos. 1 to 9 were favoring Rui Universal Realities LLP and therefore they decided to reject SK fortune builder for their



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own interest and ulterior motives. Accordign to disputants, giving preference to Rui Universal Realities LLP was wrong and detrimental to the interest of the society and the members of the society including the disputants.

22. It is further contended in the application that before the SGM Meeting dated 17/8/2025 for selection of Developer-BUILDER, the disputants issued a letter dated 12/8/2025 and requested to update all the details of the quotations selected by the committee members. Opponents uploaded Legal Report on what's app group. According to disputants, it is a regular practice of the Opponent No. 1 to 9 to send necessary documents required to be studied before the meeting one day prior the Meeting, so as to ensure that the members and the disputants cannot study the same and therefore cannot put forth their suggestions in the meeting. The entire procedure of selecting the Developer-BUILDER has been illegal and against the provisions of law. The officer appointed from the officer of Deputy Registrar failed to conduct the said meeting in the legal manner as contemplated in the G.R. dated 4/7/2019. The voting was not done in a democratic way. The election was not done by secrete ballot and therefore the selection process of the builder is illegal.

23. It is further contended in the application that there are couple of complaints filed against the Rui Universal Realities LLP in Maha Rera and in Civil Court which are pending for hearing. The said fact was suppressed by the PMC and the Opponent Nos. 1 to 9 from the members of the society. Thus



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the opponent nos. 1 to 9 are not acting in good faith and are keeping the members and the disputants in dark. The shop owners initially were not ready to go for redevelopment, however the builder Rui Universal Realities LLP agreed to pay Rs. 25 lacs upfront to the shop owners. As the shop owners were getting huge amount from the builder, they voted in favour of the said builder.

24. It is further contended in the application that Opponent nos. 2 to 9 along with PMC on 30th July 2025 decided by passing a resolution, that any revised offers after 12/7/2025 should not be received. According to disputants, the managing Committee do not have right to pass such a resolution without putting forth the said subject before the members of the society in the SGM. More over there was no any agenda notice of the said meeting dated 30/7/2025 nor there are any proposer and seconder to any of the resolutions. Therefore the resolutions passed on 30/7/2025 in the Managing Committee meeting are invalid and illegal.



25. It is further contended in the application that in the Special General Body Meeting dated 17/8/2025 no any procedure as per law was followed by the Opponents as well as the representative of the Deputy Registrar. None of builders presented their re-development project in front of the members of the society. The members including the disputants had no idea about the re-development project, quotations. Opponents had given a ballot paper for voting to select the Developer. Opponent nos. 2 to 9 made it sure by

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giving wrong information that the members should vote only one developer that is Rui Universal Realities LLP.

26. It is further contended in the application that the developer has informed that they are going to construct standard size flats, therefore the members are required to pay additional amount for the additional area over and above the agreed free area which is not contemplated in re-development process. It is further submitted that if the members refuse to pay for the additional amount over and above the agreed free area, then the members should opt for the flat of less area which will amount to injustice to the disputants as well as to the members of the society. This is against the basic concept and idea of Re- Development. Opponent Nos. 2 and 3 and most of the committee members owns shop in the society and therefore they are accepting the proposal given by Rui Universal Realities LLP as the said builder is favouring the shop owners.

27. It is further contended in the application that as per circular dated 4/7/2019 published by Maharashtra Government for re-development, the Developer is under obligation to give Bank Guarantee of the amount of 20% of the entire Re-Development project cost. However the Opponents are reluctant to take the Bank Guarantee from the developer. This act of the Opponents is in violation of the Government Resolution dated 4/7/2019.



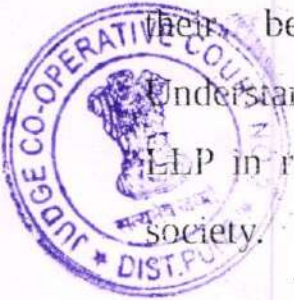
28. It is further contended in the application that Opponent Nos. 2 to 9 are not considering any of the Suggestions / Objections given by the members of the society including the Disputants. Disputants had sent various emails and letters to Opponent No. 1 society dated 16/1/2024, 4/4/2024, 7/7/2024, 8/7/2024, 11/7/2024, 14/7/2024, 15/7/2024, 15/7/2024, 19/7/2024, 20/7/2024, 21/7/2024, 23/7/2024, 28/7/2024, 8/8/2024, 9/8/2024, 10/8/2024, 31/8/2024, 21/12/2024, 16/1/2025, 19/1/2025, 24/1/2025, 22/3/2025, email dated 16/2/2025 send by Mr. Chatre, 17/2/2025, 14/5/2025 email dated 31/5/2025, 6/7/2025, 13/7/2025, email dated 1/8/2025, 11/8/2025, 12/8/2025, 14/8/2025, email dated 15/8/2025 and 19/9/2025 but the Opponent Nos. 1 to 9 paid no heed to the said letters. Therefore the Disputants had issued legal notice dated 16/5/2024 through Advocate. By this Notice the Opponent Nos. 1 to 9 are called upon to follow the entire process of Re-Development of No. 1 society as per law and as contemplated in the G.R dated 4/7/2019 inform the Developer to give Bank Guarantee to the tune 20% cost of the total cost of Re - Development.



29. It is further contended in the application that Opponent Nos. 1 to 9 are intending to execute the Memorandum of Understanding and further enter into Re-Development Agreement without taking Bank Guarantee with the Developer -Rui Universal Realities LLP, then the Opponents shall be committing illegality and will be putting the entire re-development project of the society at risk. Opponents have violated all the guide lines of the G. R. dated 4/7/2019 and

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without following the proper process of Re Development, the Opponents are trying to execute the Memorandum of Understanding with the Developer very hurriedly and hastily. According to disputants, nothing has been finalized by the Opponent society till date, No Project Report & Project plan has been furnished by the Developer to the Society and to the members nor the additional free area to be offered to the members of the society has been finalized by the society. The illegal acceptance of the Offer given by developer is entirely against the interest of the society and therefore it has become necessary to restrain the Opponent Nos. 1 to 9 or any body on their behalf from executing the Memorandum of Understanding with the Developer - Rui Universal Realities LLP in respect of the Re-Development of Opponent No. 1 Society.



30. It is further contended in the application that all the stages mentioned in the circular dated 4/7/2019 issued by the Government of Maharashtra, are mandatory and required to be strictly complied with by the Opponent No. 1 and its committee members. However in the present matter, the Opponents never complied with even a single state according to the said circular. Therefore the process of Re-Development commenced by the Opponent Nos. 1 to 9 is absolutely illegal, improper and against the mandatory directions and as such the same is void ab-initio and needs to be injuncted and required to be directed to opponents to start the Re-Development process a fresh by re- tendering and calling

the quotations for Re Tendering by following due process of law.

31. It is further contended in the application that Disputants are having prima facie case as the Disputants are praying to get the additional 65% area without cost as per feasibility report which they are entitled for as of right. The Balance of convenience also lies absolutely in favour of the Disputants. The Disputants have already suffered huge monetary loss and mental harassment. The Disputants have every hope of succeeding in this Dispute, but in the meantime if the Opponents proceed to execute the Memorandum of Understanding without actually deciding as to how much additional area the Disputants are getting, then serious prejudice will be caused to the rights of the disputants. According to disputants if the Opponents succeeded in executing the Memorandum of Understanding, in respect of Re - Development and thereafter from entering into and executing the Development Agreement with Rui Universal Realities LLP or any other Developer unless and until the additional area to be given to the Disputants is decided and unless and until the Developer furnishes the Bank Guarantee, then the Dispute filed by the Disputants will become infructuous. Therefore it is necessary in the interest of justice to restrain the Opponent Nos. 1 to 9 from entering and executing the Memorandum of Understanding, in respect of Re-Development and thereafter from entering into and executing the Development Agreement. The Disputants will further be put to loss if they don't get the additional 65% area



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without cost which they are entitled for as of right. If the injunction as prayed for is granted no harm is going to be caused to the Opponents. On the contrary if the injunction as prayed for is not granted then the Disputants will be put to great irreparable loss which cannot be compensated in terms of money. On all the above grounds, disputants prayed to allow this application as prayed.

32. To resist the contention in the application, opponents have filed their reply below exh.13. Opponents denied all allegation mentioned in this application. According to opponents, the dispute filed by the disputants is not legal and void and the same is not maintainable at law. Disputants are having no case on merits, has filed this suit only to harass the Defendant and to stall the redevelopment process of the suit property.



33. It is contended in the reply that there are total 38 members and not 39 members as stated in the plaint. Opponents admitted that Opponent No. 1 Society called for the Special General Body Meeting on 20/07/2024 by issuing agenda notice dated 6/7/2024. Opponents further admits that in the present meeting it was decided to carry out redevelopment of the society. The appointment of project management consultant/architect in the said meeting is also perfectly legal and as per the agenda and resolution passed in the said meeting. As per Judgment and order of the Hon'ble Co-op Court No. 2 Pune, the opponent society is at liberty to cancel all the resolutions in respect of redevelopment and

restart the redevelopment process from the stage of calling of the quotations from project management consultant/architect and by following the guidelines issued by Maharashtra under Sec. 79 (A) of MCS Act, 1960 in its actual spirit. Opponents admitted that in the said meeting dated 20/7/2024 the society firstly ought to have passed a resolution to call for architect the quotations from state Government of Project Management consultant/architect.

34. It is contended in the reply that all resolutions passed regarding the appointment of the project Management Consultant are passed in a legal manner and there is no any violation of the order of Hon'ble court as alleged. The allegations stating that it was pre planned and pre decided to appoint Harshal Kavadikar from Nilay Sarathi and Adv. Kiran kabra is not true and correct. The process of appointment of Architect/Project Management Consultant (PMC) was transparent. The allegations stating that no any resolution to appoint Architect/PMC was passed in the said meeting dated 20/7/2024 and there is neither proposer nor seconder to any of the so called resolutions shown to have passed in the said Meeting are not correct and denied by opponents. According to Opponents resolution passed in the society are perfectly legal and are binding on all the members including the disputants. The resolutions Nos. 2, 3 and 4 passed in the SGM dated 20/7/2024 are legal and valid. The allegations saying that Opponent No 1 to 9 are again trying to carry out the Re-development process as per their whims and wishes and



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by violating the rules and regulation and the G.R. dated 4/7/2019 are not true and correct.

35. It is further contended in the reply that the order of the Hon'ble court is self-explanatory which had allowed the Opponent society to start the process from certain stage onwards and the opponent society has also done the said process within the frame work of law and hence all allegations are denied. The opponent society have followed the directions given by the Hon'ble court and hence the required resolutions were cancelled and new resolutions were passed in the meeting dated 20/07/2024.



36. It is further contended in the reply that area statement remain the same as per actual measurement as decided by the society members. The Hon'ble court has not declared the area statement as illegal. The disputants with a view to create the obstructions again are mis-interpreting the earlier order. The disputants who wanted to get their area measured were allowed to get it done and whatever statement was submitted by them in respect of their respective units was considered by the architect and accordingly in cooperated in the area statement and later in tender document. That the written correspondence regarding the area of the disputants are filed on record for reference.

37. It is further contended in the reply that the area statement was prepared by taking the actual measurements and the same was acceptable to all the members. There was

no need to take new measurements. The allegations stating that the newly appointed PMC ought not to have relied on the Area statement prepared at the time of previous tender and certified by the Architect Hemant Mahajan is not correct. The allegations stating that there are many discrepancies in areas mentioned in the feasibility report are also not correct and the same are denied. According to opponents, different area of the same shop or same flat are written in different documents i.e., the sanction plan, tender document and feasibility report are distorted. The area statement was acceptable to all the members and hence the same is correctly referred in the tender document. The disputants are making lame efforts to find some grounds to stall the process for their vested interest.



It is further contended in the reply that Disputants have got the flat areas measured from the Government panel surveyor recommended by Mr. Kavadikar mainly not because the PMC refused but for the reason that disputants can get it checked by the expert and authorised surveyor to satisfy their queries. The allegations as regards the feasibility report are baseless. This Hon'ble court has no jurisdiction to decide the validity of Feasibility report and the person who prepared the said report is not party to this proceeding and hence the same are totally baseless and based on self-imagination of the disputants. The feasibility report is the technical report based on UDCPR Rules and other parameters and hence validity of the same cannot be decided in this dispute.

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39. It is further contended in the reply that the allegations as regards to the area discrepancy are also not correct. The old property card shows the area of 1689.20 sq. mts. That the latest property card also shows the same area. That the Government Demarcation made in the year 2022 also shows the same area. The Disputants are trying to mislead the facts regarding the area of the said plot/property. It is not true to say that the area mentioned in the Property card is less than the actual plot area and therefore it was necessary to correct the property card first and then get the feasibility. According to opponents, there is no need of any property card correction alleged. The actual area after measurement is also same.



It is further contended in the reply that disputants have repeatedly raising the grievance regarding the different amount of Betterment charges for shop Owners and Flat Owners. The allegations stating that most of the committee members out of Opponent Nos. 2 to 9 owns shop in the society in their name and therefore the Disputants have initially included the fact in the tender about giving Rs. 3 lakh betterment charges to the flat owners and giving Rs. 25 lakhs as betterment charges to the shop keepers without taking any approval from all the members of society in the AGM/SGM is totally false and baseless allegation. It is true that in the tender notice the Opponents demanded Rs. 25 lacs as betterment charges for shop owners and Rs. 3 lacs as betterment charges of the Flat owners. According to opponents they do not have any right and authority to decide the quantum of betterment charges. The members who did not agree were it is submitted

on the term sheet and tender draft was approved in the Special General Body Meeting Dated 16/02/2025. The members even gave their separate consent letters to the term sheet, tender draft etc. Thus the resolution regarding the condition of betterment charges were duly approved by the members by majority and accordingly it was incorporated in the tender.

41. It is further contended in the reply that the shop owners are not on same footing like the Flat owners as alleged. It is to be noted that since beginning the shop owners were against the re-development stating that -1) There will be loss of business 2) the new building will have staircase upto the shop and which leads to easy access issues to the customers. 3) The facilities which are enjoyed and provided in the new building are mainly beneficial to the flat holders and not the shop holders 4) It is not easy to settle in the business in the new locality and there is business loss/ loss of income to the shop holders due to the re location. These were the concerns of the shop holders which are genuine in nature. The shop owners had raised these concerns by sending letter to the society. The committee took efforts to convince the shop holders. After deliberate discussions and considering all the aspect the betterment charges are decided and the same was accepted by General Body except the disputants who are finding some way or the other to create the obstructions in the re-development process.



42. It is further contended in the reply that the allegations regarding the extra area which the Developer -builder has

agreed to give is also very much less than the extra area given by other builders in the vicinity area is false, vague. The contentions stating that the disputants obtained the other feasibility report is not known to the society and the same was never submitted to the society as well. This is not the correct forum to decide validity of entire report as the person who has prepared the feasibility report is not party to the proceedings.

43. It is further contended in the reply that disputants have submitted their respective area by letter dated 13/02/2025 and the same was incorporated in the tender. It is not true to say that the Opponents and the Architect and the PMC refused take measurement and informed and recommended to get the measurements done through Government Surveyor - Mr. Jagdeep. According to opponents, the measurements done were acceptable to the members and those who wanted to get it done again were given liberty to get it done on their own and accordingly it was done by the disputants. The allegations that the measurement of disputants flats are not correctly mentioned in feasibility and hence the feasibility is wrong is totally baseless allegations. The developers give offer based on the feasibility. Therefore, the redevelopment partaken by their own architect and the sell rate, cost of construction differs from developer to developer. Thus the feasibility of the society is not the documents on which the developer has given the offers. Feasibility report is general idea/ working by the architect about the available FSI, TDR and the possible offered area which the members can get.



44. It is further contended in the reply that as per the Tender Notice published, the last date of submitting tender was 19/04/2025. It is also true that the date was extended to 23/04/2025 till 6.00 pm. According to opponents, the PMC received certain mails from the developers requesting them to extend the date and in the interest of the society at large so as to get more competitive offers and more choice the same date was extended and accordingly 8 offers were received during extended period. The offers were sealed and all offers were opened in the society in front of the members and hence the complete transparency was maintained. The extension of date does not violate the process as alleged and there is no personal loss to the disputants due to the extended date.

45. It is further contended in the reply that the gatherings were conducted time to time to give updates to the members about the process and progress and to maintain the transparency. That whenever the members gatherings under the name "Sabasad Melava or under any other name was arranged then at such times the notices were issued for the early information so that members can come. No concrete decision was taken in such gatherings. That the contents stating on 26/1/2025" Sabhasad Melava" was held at Radhika Bungalow. The Notice of the said "Sabasad Melava Notice" was issued on 16/01/2025 is correct. It is correct to say that it was decided and not resolved to place the said final feasibility report in the SGM. This shows that feasibility report was explained first and then the same was put in SGM.



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46. It is further contended in the reply that the feasibility report was shared with all the members through emails/ and/or WhatsApp and was also published on the website of the society by name shriramjyotichs.com. The agenda of the notice dated 01/02/2025 was clear and the same was approved by the members in SGM dated 16/02/2025 by majority. Separate consent letters were also given by the members.

47. It is further contended in the reply that the appropriate changes were incorporated in tender documents and the same was shared with the members through various modes as stated above.



48. It is further contended in the reply that disputants are challenging the validity of the meeting in para no.19. However the disputants have not mentioned as to which meeting they are referring. The voting of the said meeting was taken in a proper manner. The members who could not attend were present online. However even the online votes are not considered; the resolutions were passed by majority by members present and voting. The allegations stating that the entire Meeting dated 16/02/2025 was held and conducted illegally is totally false. The said meeting is perfectly legal, there was required quorum, agenda was circulated and the resolutions were passed by the members present and voting. The members who were not present and attended online were given opportunity to give their opinion and the same is in line with democratic principles.

49. Opponents admits that on 26/03/2025 tenders were published in the daily New paper "Dainik Prabhat". But they denied all the allegations regarding publication of tender. According to opponents, the date of the tender was extended in the interest of the members, the same was informed to the members and hence, that there is no violation of GR as alleged. The disputants letters were nothing but the harassment which continued since beginning.

The tender process was as per standard norms, tender was approved by the General Body, Tender notice was published in the newspaper, the date for submission was extended in the interest of the members, tenders were opened in front of the members, the comparative statement was correctly made and members voted after presentations. Thus every step was transparent and hence all allegations to that effect are denied.

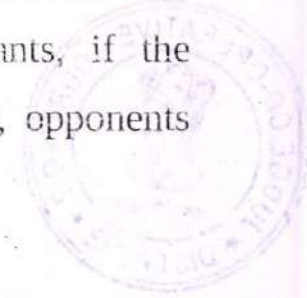


50. It is further contended in the reply that the appointment is legal and valid and all due process is followed by the society while appointing the developer". According to opponents, disputants intention is to obstruct and delay the re-development. The other members are eagerly waiting for the new premises due to the lack of modern amenities and basic facilities. The society always welcomed the valid and logical suggestions of all the members. The GR dated 04/07/2019 are the directives and not mandatory. The Hon'ble apex court has many a times reiterated the legal position that sufficient compliance of the guidelines are expected. That bank guarantee is also not mandatory as alleged.

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51. It is further contended in the reply that A) The earlier resolutions were cancelled as per the order of Hon'ble court in Dispute No. 80/2023. These were cancelled in the Special General meeting dated 20/07/2024. B) In the said meeting dated 20/07/2024 the appointment of PMC was confirmed. C) The web site was created on D) The tender was finalised in the meeting dated 16/02/2025. E) The Tender Publication notice was given in Daily Prabhat on 26/03/2025 F) The date of submission was extended till 23/04/2025 and the same was updated on. G) Tender was shared through emails to disputants. Email copies attached. H) The presentations were kept on 12/07/2025 1) Voting was conducted on 17/08/2025. According to opponents, disputants have no prima facie case.

Balance of convenience does not lie in their favour. And no irreparable loss will be caused to the disputants, if the injunction is refused. On all the above grounds, opponents prayed to reject this application with costs.



52. Considering rival contention of the parties following points arose for my consideration against which I have recorded my findings with reasons as under. :--

Points.

Answers.

1. Whether disputants have prima facie case in their favour ? :-- As to Negative.
2. Whether balance of convenience lies in favour of disputants ? :-- As to Negative.
3. Whether disputants prove that if temporary injunction is not :-- As to Negative.

granted then it will cause

heavy irreparable loss to them ?

4. What order ?

:-- As per final order.

--: **REASONS.** :--

53. In support of application disputants have filed document with exh.3, 16, 21 and 35. They also filed case laws with exh.21. Disputants have filed their written notes of argument below exh.33.

54. Opponents have filed document with exh.15, 23, 28 and relied on case laws filed with exh.24. Opponents have filed their written notes of argument below exh.29.

55. Heard the counsel for disputant at length. Perused documents. Read case laws and notes of argument.



56. Heard the counsel for opponents. Perused documents. Read case laws and notes of argument.

Point no.1.:--

57. According to disputants, all resolution shown to have been passed in the special general meeting dated 20/07/2024 are illegal and are against government resolution dated 04/07/2019. On the contrary, opponents denied the same with specific pleading.

58. During argument, counsel for disputants strongly submitted that each and every act of co-operative society

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must be based on resolutions as it is a corporate body. In the special general body meeting dated 20 July 2024 project management consultant is illegally appointed. Because prior to the appointment, opponent society ought to have pass resolution to call the quotation from project management consultant. But no such resolution came to be passed. Even information regarding quotation wasn't given to the members. In the minutes, it is stated that the managing committee had already called for quotation from 5 consultants but without any resolution to that effect, the managing committee had no such authority. Opponents have violated government resolution dated 04/07/2019 Therefore, appointment of project management consultant Mr. Harshal kawadikar is illegal improper and it is contrary to the government resolution. Even there is no proposer or seconder in respect of so-called resolution. Therefore, resolution number 2 to 4 shown to have passed in the said special general meeting are illegal null and void.



59. On the contrary, counsel for opponents strongly opposing said contention submitted that as per order passed in dispute no.80/2023 liberty was given to the society to start the process again from the stage of calling of the quotations for the appointment of PMC. Opponent society to be fair and transparent started the process by taking requisition letter. It is on record filed with exh.15 at sr. no.1. The redevelopment was agreed by members by thumbing majority. The management committee took 5 quotations from various PMC's out of their interview of 3 PMC was conducted and

best 2 out of those three were invited kept the presentation in the meeting dated 20/07/2024. The agenda, minutes and resolutions passed in the said general meeting are on record filed with exh.15 at sr. no.2. The said resolution was passed by majority. The members also gave their separate consent letters. The consent by votes counted in the said meeting is also on record. Even disputant - no.2 gave the consent in writing to the PMC selection. Same is also on record. The management committee transparently appointed the PMC and allegation of disputant regarding appointment of PMC is baseless.

60. To appreciate the above contention I perused copy of order passed in dispute no.80/23, government circular dated 04/07/2019 and copy of proceeding of the meeting dated 20/07/2024. It seems from the order passed in the said dispute that opponent society is at liberty to cancel all the resolutions in respect of redevelopment and restart the redevelopment process from the stage of calling the quotations. I also perused proceeding of the said meeting and requisition letter filed by opponents. As per requisition letter members of opponent society demanded for calling special general meeting for re-development of society's building. It bears signature of members who were present in the meeting. It seems from the proceeding of special general meeting dated 20/07/2024 that subject no.3 was regarding re-development of society's building. Subject no.4 was regarding appointment of project management consultant. It is mentioned in subject no.4 that management committee had called five proposal and



quotation and after scrutiny called 3 expert. Two expert made presentation before general meeting. It also seems from the said proceeding that both subject regarding re-development and appointment of PMC were passed by full majority. And Harshal Kawadikar was elected and appointed as PMC for the redevelopment of the building of society. Vote sheet is on record bearing signatures of members.

61. Perusal of point no.5 embodied in the government circular dated 04/07/2019 it seems that 1/5 members required to make requisition for redevelopment thereafter the secretary of the society shall call special general body meeting. Before calling the said meeting the managing committee of the society shall call at least 3 quotations for preparing project report of the re-development. There is no provision to pass resolution for calling quotation in the special general meeting as advanced by disputants counsel. As per government circular, the management committee ought to have call at least 3 quotation before said meeting.



62. The copy of requisition, proceeding of the special general meeting denotes at this juncture that opponent society complied directives provided under point no.5 of the government circular. Vote list disclose that appointment of PMC was held by thumping majority. No doubt, name of proposer and seconder are not mentioned in the said proceeding. But for that clerical or technical error, it can not be said that the resolutions contained in the said proceeding are not passed legally. I do not find any serious illegality in

respect of passing resolution to appoint Mr. Harshal Kawadiar. In the light of said facts and documents produced by opponent society, I do not find legal force at this juncture in the above argument of disputants counsel. On the contrary, I do find substance in the contention of opponents counsel as advanced above.

63. Disputants counsel further submitted that the area statement prepared by architect Mr. Hemant Mahajan is considered while preparing the feasibility report by Mr. Kawdikar. This act is itself wrong, and illegal, and also detrimental to the interest of Members of the society. He next submitted that the extra area which the developer builder has agreed to give is also very much less than the extra area given by other builders. As per feasibility report, obtained by disputant from another architect, the extra area is to be given



members is much more but opponents are illegally accepting the offer of 45% percent extra area. He further submitted that the area of disputant flats mentioned in the feasibility report are not correct. Disputant got the measurement and found that there is difference in the measurement. But actual increased measurement isn't included in the feasibility report. The area mentioned in the property card is less than the actual plot area. Therefore, it was necessary to correct the property card first.

64. Opposing said contentions, counsel for opponents submitted that disputant had objected stating that they are eligible for the more area than that of stated in the area

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statement by the Opponent. The Opponent society in its meeting dated 16/02/2025, at the resolution no.3 have taken the area correction as per the information provided by the members. Disputants had taken up the personal area measurements. As per the area mentioned in the personal corrections, it was decided to be duly incorporated by the society's architect in the area table flats/shops and the same was incorporated in the updated Chart. The Area statement and feasibility report (Para 16, Exh 5) Disputants have placed on record a handwritten area statement and feasibility report at Sr. No. 6 under Exhibit 17. The authenticity, genuineness, and evidentiary value of the said document are seriously disputed. The feasibility report tender draft and area statement was duly kept before the general body and members have given their written consent by way of consent forms listed at Exh. 15. Sr. No. 5. As far as Property card Updation is concerned, the area of the sale deed shall be taken into consideration which is 17 Gunthas. (refer para 10 of Exh. 5).



Updation of the property card is very exhaustive process. UDCPR rules Point No. 3.9 (ii) it is clearly stated that "for the purpose of computation of FSI/built-up area, the Sr. No. 6, net area of the plot shall only be considered" (refer Exh. 18 Page No. 9). Accordingly the area of the property card was taken into consideration while preparing area statement and is considered in the feasibility report of the Opponent society i.e. 1689.2 Sq. Mtrs. (Refer Document No. 3 at Exh. 3).

65. I have given due consideration to foresaid submission of respective counsels. Disputants objection is on two points .

First is that area statement is not correct and second is that the area mentioned in the property card is less than the actual plot area.

66. During argument, disputants and his counsel admitted that they moved application to the opponent society to correct their flat area as per measurement taken by them through private surveyor. Opponent society has filed the letter dated 13/02/2025 with exh.15 addressed by disputant to the Architect of opponent society pointing out their area along with map. There is nothing on the record that the area suggested by disputants are not incorporated in the feasibility report. Feasibility report obtained and placed on record by disputant is Xerox and can not consider at this juncture. Consent forms filed by opponent society with exh.15 at sr.25 to 56 disclose that majority of members of opponent society have consented to feasibility report, tender draft and area statement prepared by opponents and also seems that same were duly kept before the general body meeting of opponent society dated 16/02/2025. Hence, I do not find legal force in the first contention of disputants.



67. Second contention is regarding mentioning less area in property card of society. Disputants have filed copy sale-deed of the property of opponent society. As per sale-deed, land of opponent society is 17 Guntha. Property card shows actual area 18550 sq.ft. and net area 18513 sq.ft. Opponents counsel relying on UDCPR rules Point No. 3.9 submitted that net area of the plot shall only be considered. The updation of property

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is not easiest way. I perused point no.3.9 UDCPR filed by opponents with exh.18. As per point no.3.9 (ii) for the purpose of computation of FSI/ built up area, the net area of the plot shall only be considered. In the light of this provision, I do not find any probable reason to cause any prejudice to disputants as well as other members as the net area of their respective flat shall be considered for computation of FSI/ built up area. Majority of members are willing for the re-development of building and under guise of area mentioned in sale-deed and property card as pointed out by disputants, majority of members can not be prevented from exercising their rights to get re-development of building of opponent society. Apart of it, correction of property card is lengthy procedure and most of members have no serious dispute regarding such differentiate area as emphasized by disputants. Hence I do not find legal substance in the second contention of disputants

68. Disputant counsel further submitted that opponent number 2 to 9 have decided betterment charges Rs.3,00,000/- to the flat owners and Rs.25,00,000/- to the shopkeepers without any approval from the members in special general meeting and without any resolution. There is huge difference between the betterment charges. Opponents do not have any right and authority to decide the quantum of betterment charges. Shopkeeper and flat owners are on the same footings and cannot discriminate. Therefore, the said act of opponents is illegal improper and against the guidelines as contemplated in the government resolution.



69. On the other hand, counsel for opponents submitted objection regarding betterment charges Rs.25,00,000/- to shop owners and Rs.3,00,000/- to flat holders is misconceived and based on an incorrect understanding. In the case of shop/commercial unit holders, any shifting or displacement results in tremendous financial and business loss, including but not limited to loss of established customers, goodwill, business continuity, location advantage, and consequential inconvenience. Such losses are not merely notional but have direct economic implications affecting livelihood and sustainability of the commercial establishments. On the other hand, residential flat holders do not suffer comparable commercial or goodwill related losses upon relocation. Therefore, considering the distinct nature of hardship, the betterment charges were structured differently in a rational, reasonable, and equitable manner. Documents submitted below Exhibit 18 at Sr. Nos. 3 and 4 clearly reflect the representations and demands made by the shop holders themselves, seeking appropriate consideration of their position.



70. From the fore-said contention it appears that disputants are disputing betterment charges on two footing, first is that same is discriminatory and second is contrary to government circular. Opponents are justifying the same pointing out distinct nature of hardship causing to shop owner and flat owner. Disputants have pleaded in para no.24 in this application that S. K. Fortune builder offered betterment

charges of Rs.5,00,000/- to residential and Rs.25,00,000/- for commercial. This offer is not disputed by disputants. It seems from pleading that disputants expected that such offer should have to be accepted by opponent society. So, objection of disputants pertaining to betterment charges on the ground of discrimination is not based on sound and bofafide reason. Documents at sr.3 and 4 filed by opponents with exh.18 demonstrate that shop owners have communicated their concerns relating to business. I can not agree with the contention of disputants that flat owner and shop owner are on same footing. Because displacement of shop/commercial unit holders certainly will affect their business. On the other hand no such issue is before flat owner. Hence, I do find substance in the argument advanced above by opponents counsel. I also perused government circular dated 04/07/2019 on which disputants are relying. It is argued that discriminatory betterment charges are against said circular but did not point out as per which guideline incorporated in it same is contrary. In the said circular, no guideline is provided regarding betterment charges. Majority of members are agreed and accepted the above stated betterment charges except disputants. Considering all the facts and said letters of shop owners, I do not find any discrimination at this juncture on the part of opponents accepting the foresaid betterment charges.

71. Disputants counsel next submitted that tendering process is illegal. The last date of submitting tender was 19th April 2025 but opponents have extended the said period

without any authority. Opponents have not called any special general meeting to extend the said period.

72. As against this, opponents counsel submitted that objection about the extension of the tender date is not proper. Document No. 6 from page no. 57 to 67 shows the emails were received by the Opponent society in regards to the request for the extension of the Tender submission date. It clearly shows that the Opponent Society has always been fair and transparent about the every stage of redevelopment. The decision was in the interest of society at large and no any harm is caused to anyone because of this extension. On the contrary the developers could calculate and give good offers due to the extension.

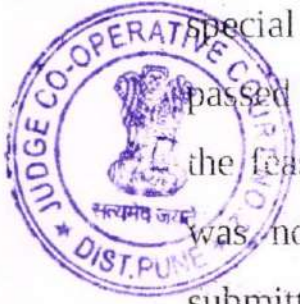
73. Disputants are objecting extension of tender date alleging that it is without any authority. It is un-disputed fact that tender submission date was extended by opponent society. Opponent society has not placed any document showing that opponent society has passed resolution to extend tender date. According to opponents, tender date is extended on receiving emails requesting for extension of date and in the interest of society. Opponent society has filed copies of emails at sr. no.57 to 67 with exh.18. Perusal of said emails, it seems that request are made by various builders to extend tender submission date. Certainly, opponent society being co-operative society ought to have take such decision by calling meeting and passing resolution. Therefore, such act of opponent can not justify. But at the same time, it is also



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necessary to look at this juncture whether extending tender submission date was detrimental to the interest of opponent society and its members. And I do not find any reason causing prejudice to the interest of society and its members including disputants because of extension of tender submission date. On the other hand it seems at this juncture in the interest of society and its member as opponent society could receive more offer for re-development.

74. Disputants counsel further submitted that on 26 January 2025 Sabhasad Melava was organised. The notice of the said Melava was issued. Sabhasad Melava cannot be said a special general meeting of the society. But opponents have passed resolutions under the guise of Sabhasad Melava and the feasibility report submitted in the said Sabhasad Melava was not correct. It was for the first time Mr. kawadikar submitted feasibility report based on wrong areas and calculation. But the feasibility report was never presented in front of all the members in any of the meetings nor any resolution to that effect is passed by the society. Final feasibility report was handed over to the managing committee meeting dated 14 February 2025 and it was accepted and approved by the managing committee members. The said final feasibility report was required to place before the special general meeting. And thereafter required to accept the same. There was no any agenda of the said meeting and even there was no any proposer and seconder to any of the resolution. Therefore, the act of accepting and approving feasibility report is illegal and it is against government resolution.



75. On the contrary counsel for opponents opposing said submission submitted that disputants are raising objections regarding resolution no.1 to 4 passed in general meeting dated 26/01/2025. The notice of the said meeting is on record. It is filed by disputants. The said document is titled as Sabhasad Melava. Opponent society was conducted such Melva only to interact with the members, sharing detail information regarding ongoing process in the presence of PMC and further to clarify their doubts. No resolution was ever passed in such meeting called as Sabhasad Melva. Disputants are trying to mislead the court by attaching the resolutions passed in some other meeting. Thus disputants have not come with clean hands. The document which is at sr.6 filed with exh.3 by disputant is regarding resolutions. However, the said resolutions are not passed in the meeting dated 26/01/2025 but the same are passed in the meeting dated 16/02/2025. Hence prayer of injunction regarding prayer clause V regarding to restrain resolution no.1 to 4 passed in the special general meeting dated 26/01/2025 is not bonafide and not tenable.



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76. I have carefully gone above submission of both parties. According to disputants, under the guise of Sabhasad Malva dated 26/01/2025 opponents have passed resolution and accepted the feasibility report without putting the same before special general meeting which is illegal and contrary to government circular. On the contrary, defence of opponents is that no any resolution is passed as alleged by disputants on

26/01/2025. But the resolutions came to passed in the meeting dated 16/02/2025.

77. Perused documents filed by disputants. They have filed a copy of notice of Sabhasad Melve. It is dated 16/01/2025. As per this notice Sabhsad Melve was organized to discuss on three subjects. Subject no.1 was regarding to discuss area table of flat / shop. Subject no.2 was regarding to discuss feasibility report and Subject no.3 was regarding to discuss draft of tender document and tender process. Perusal of entire documents produced by disputants, I do not find any document or proceeding of opponent showing that opponent society has passed resolution in Sabhasad Malva dated 26/01/2025 and accepted feasibility report as alleged. Hence, fore-said contention of disputants is not acceptable at this juncture in absence of credible documentary proof.



78. Disputant counsel further submitted that tender document was also not approved in special general meeting and seems to have been approved in the managing committee Meeting dated 14, July 2025. Thereafter Special general meeting was called On 16 February 2025 and in that meeting the chairman merely informed that required changes are carried out. But didn't specifically pointed out what changes are carried out in the feasibility report. Disputants and other members of society aren't aware about the terms mentioned in the term Seat. Therefore, resolution no.4 is illegally shown to have been passed.

79. On the contrary, opponents counsel argued that the tender had precondition of the 25 lacs to Shops and 3 lacs to flats and said condition was duly incorporated after putting tender document before the general Body and the consent and resolution was passed to finalize. Disputants have produced documents with Exh. 3 Sr. No. 6,8). The consent letters of the members approving Tender Document are submitted at Exh. 15 Sr. No. 5. Thus, majority of the members have approved the said precondition in General Body and hence the same is binding on the disputants as settle principle is majority will bind the minority.

80. In the light of fore-said argument of disputant, it appears that resolution no.4 is illegal as disputants and members are not aware about the terms mentioned in the term sheet. I perused copy of notice of special general meeting scheduled on 16/02/2025 filed by disputants with exh. 3. As per this notice, agenda of the said meeting was to accept feasibility report, tender document and tender process and subject no.4 was regarding to accept Area table of flat / shop. Resolutions passed in the said meeting are also produced on record by disputants and opponent society with exh.15. It seems that all resolutions including resolution no.4 relating to accepting feasibility report, tender document and tender process, area table of flat/ shop came to be passed by majority. Resolution no.4 seems to be passed by majority of 29 members out of 32 members accepting the term sheet. Consent letter letters produced by opponents with exh.15 sr. no.25 to 56 shows that members have consented by executing



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consent forms to the feasibility report, tender document and tender process, area table of flat/shop and the term sheet. In the light of said proceeding and consent forms, there is no substance in the contention of disputants that disputants and members were not aware about resolutions including resolution no.4 passed in the special general meeting dated 16/02/2025. Resolutions passed in the said meeting are binding on all members of opponent society including disputant as same are passed by full majority.

81. Disputants counsel next submitted that the entire meeting dated 16th. February 2025 was held and conducted illegally. Because the said meeting seems to have schedule off time. However, about 5 members are shown to have voted On line which is illegal and against the provision of law. After the said illegal meeting, disputants immediately issued letter dated 16th, February 2025, and pointed out all the illegalities committed by opponents. But in vain.

82. On the contrary, opponents counsel submitted that disputants have taken objection on the online appearance by few of the members in the meeting. The involvement of members in the Redevelopment is very important mode. If the votes of the 2 members who were present online are not taken into consideration, Opponent society had thumping majority in favour of the developer selection and passing resolution.



83. Disputants objection regarding on line appearance by some members in the foresaid meeting having no legal force at all. Even for the sake argument it is accepted that the said meeting was off line. Members can not be prevented from participating in the meeting through on line who are unable to attend off line meeting if such facility is available. Perusal of proceeding of the meeting dated 16/02/2025, it seems that opponent society has made on line arrangement for members to participate in the said meeting.

84. Disputant counsel further submitted that on 26 March 2025 tenders were published in the daily newspaper Dainik Prabhat without any resolution. Therefore, this act is illegal. Even open tendering was not done by the opponents. The tendering process wasn't transparent at all. The tenders which were received was never put fourth before the members of the society and disputant and members were not aware of it. He further submitted that earlier it was decided that tender forms will be given on payment of ₹15000/- as decided by the project management consultant but opponent number 1 to 9 increased the said amount up to Rs.25000/- without the approval and discussion in the special general meeting. Opponent number 1 to 9 and project management consultant opened the tender and they themselves rejected 5 tenders without placing the same by calling special general meeting and placing the same before disputant and other members. Opponents selected three tenders and called them to give their presentation. Presentation given by Rui, universal realities wasn't accurate and proper. Therefore, revise quotation from



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all the 3 builders were called which were selected by the committee. Thereafter, comparative statement was shown but wrong offer of S.K. Fortune builder was mentioned in the comparative chart. Said Builder gave offer off 45%. Additional area and betterment charges Rs. 500000/- to flat owners and rupees 25 lakh to shop-owners. Disputant, immediately by letter dated 13/07/2025 pointed out the irregularity but it is not considered. The entire procedure of selecting the developer builder has been illegal. The officer appointed from the office of deputy register failed to conduct the said meeting in the legal manner and as per government resolution. Project management consultant suppressed the fact about the complaints against Rui, universal realities pending in the court. Opponent no. 1 to 9 are not acting in good faith.



On the other hand opponent counsel submitted that a public notice by way of paper publication was duly issued regarding tender. A copy of the said publication has been placed on record at Document No. 9, Exhibit 3. The said publication clearly demonstrates transparency and bona fides on the part of the society. Due to the reasonable cost only genuine interested developers came forward and purchased the tenders. Disputants objected regarding Enhancement in the tender purchase cost. The amount in question was duly discussed by the committee and PMC and thereafter mutually enhanced to Rs.25,00,000/- (Rupees Twenty-Five Lakhs Only). The said amount was agreed to be received in the name of the Society and was in fact to be deposited in the official bank account of the Society. As the amount was

submitted in the account of society, no any financial loss whatsoever been caused to the Society or to the Disputants by virtue of the said act. Disputants contention that there were other developers who gave better offers. But it is not compulsory that who is giving highest offers shall be selected. There are factors like credibility of the developer, the quality of work. The majority of members with written consent selected Rui Universal. The said appointment is made after following the due process, transparently and diligently and all the resolutions passed in the AGM dated 17/08/2025 are with thumping majority except the two descanting members i.e. Disputants. Opponent society has filed the relevant documents of the meeting dated 17/08/2025 at Sr. No. 13, 14 and after confirming the entire process the cooperative registrar has given the NOC which is dated 25/09/2025 and it is on record at Sr. No. 5 list exh. 18.



The sum and substance of all above stated contentions of disputants are that publication of tender notice in the news paper is without resolution. Tender process was not transparent. Enhancement of tender form amount is without approval of special general meeting. And last one is that the entire procedure of selecting builder Rui is illegal.

87. Opponents admitted that tender notice was published in the news paper and also admits enhancement of tender form amount. Tender publication notice is on record. It is at sr.9 of documents filed with exh.3 by disputant. It seems from this public notice that it was published by the chairman of

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opponent society calling tender or proposals for the re-development of opponent society.

88. Main objection of disputant is that tender publication is without resolution. Opponents have not filed any resolution disclosing that resolution came to be passed to publish tender notice in news paper. But as per point no.5 of the government circular dated 04/07/2019, the managing committee is bound to call at least 3 quotation prior to call special general body meeting for the re-development purpose after receiving requisition of 1/5 of members for the redevelopment. Even if it is accepted that tender publication is without resolution but it can not be said contrary to the interest of society and its members. By this public notice, opponent society in fact maintaining transparency regarding re-development process undertaken by it. Therefore, it would not appropriate to say that tendering process was not transparent. There is no any probable reason to cause any prejudice to disputants by act of publication of tender notice. Likewise, even if opponent society has enhanced amount of tender form, no harm caused to disputants or members of opponent. It appears in the interest of society and its members as opponent society receiving more amount in its account. I am of the opinion that while considering issue relating to re-development of society, it needs to consider in the larger sense and prospective manner. On the ground of some mere irregularity which are not affecting upon the interest of society and its members, the entire process of redevelopment can not stalled.



89. Now turning to objection regarding selection of developer. According to disputants, entire procedure of selecting Rui builder is illegal. On the contrary, according to opponent, appointment of said builder is transparent and resolution to that effect passed in the AGM dated 17/08/2025 are passed with thumping majority. I perused copy of proceeding of the said meeting filed by opponents with 15 at sr.115. It seems from proceeding that said meeting was called to select builder among 3 builders. Name of three builders are mentioned in it. M/s Rui Universal Realities is one them. Attendance list at sr.117 denotes that members were present in the said and there are signatures of members against their name. It further seems that among three builders, Rui Universal has been selected by full majority and consent letter at sr.120 regarding selection shows that majority of members have given their consent on signing it in favour of said builder. I also perused letter of Deputy Registrar, Co-operative society dated 25/09/2025 filed by opponents with exh.18 at sr.5. The said letter is addressed to opponent society. It is mentioned in the letter that Rui Universal is selected by majority and with consent of members by passing resolution out of three builders. It seems from this letter that Deputy Registrar approved said resolution and granted permission for re-development of building subject to terms and conditions incorporated in it. Taking into account the resolution passed in the special general meeting and consent letter of members and letter of Deputy Registrar of Co-operative society, I do not find legal force at this juncture in the contention of disputants that the entire procedure of



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selecting builder was illegal and contrary to government circular.

90. Disputant counsel further submitted that opponent's no. 2 to 9 and project management consultant decided by passing a resolution on 30 July 2025 that any revised offer after 12 July 2025 should not be received. The managing committee do not have any right to pass such resolution without putting the same before the members of society in special general meeting. There was no any agenda notice of the said meeting. Nor there was any proposer and seconder to any resolutions. Therefore, said resolutions passed by the managing committee are illegal. Opponents are denying the same. Perusal of documents filed by disputants, it seems that copy of alleged resolution is not on record. Hence, in absent of it, I do not find substance in the said contention of disputants.



91. Disputant counsel further submitted that as per circular dated 4, July 2019, the developer is under obligation to give bank guarantee of the amount of 20% of the entire redevelopment project cost but opponents are reluctant to take such guarantee. This act of opponent is in violation of the government circular. All the stages mentioned in the circular dated 4, July 2019 are mandatory and required to be strictly complied by opponent. Society. But opponents never complied with even a single stage. Relying on provision of section 79-A of MCS Act, he submitted that said circular issued by the government is mandatory.

92. As against this, opponents counsel submitted that opponent have followed the guideline of the circular dated 04/07/2029. Disputants are praying that direction should be given to opponent society that 20% of entire redevelopment project cost should be taken as a bank guarantee by the developer. But there is no statutory provision about such requirement. The Maharashtra Government GR dated 04/07/2019 suggests to take the bank guarantee towards the performance safety for the members. However, such recommendation cannot be termed as the mandatory provision as alleged. Relying on judgment passed in Deepak Abavi Gami Vs. State of Maharashtra and others and Nitin Ambavi Gami Vs State of Maharashtra and others, opponents counsel submitted that the hon'ble Court has touched the point of Bank Guarantee. In this Judgment court in Para 7 came to the conclusion that the large majority of the occupants have accepted the redevelopment and as thereupon the managing committee has the development agreement. She further submitted that the disputants are seeking the directions to direct the Opponent society to follow the guidelines in respect of Redevelopment as per the Government Resolution dated 04/07/2019 pointing out mere technicalities. But said government GR is not mandatory but it is directory. This has been many a times made clear by the Hon'ble Bombay Court in many of the judgments. Thus, the Disputant's demand that the directions shall be given is not legal and valid. In support of said contention she placed reliance on following ruling. :--



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(1) Maya Developers Vs. Neelam R. Thakkar and others.

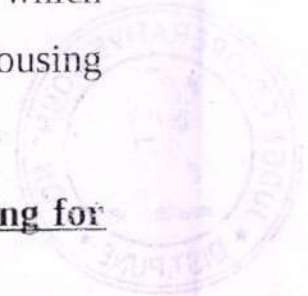
(2) Harish Arora Vs. Deputy Registrar Cooperative Societies and others. The Opponent relies on

(3) Devendra Kumar Jain Vs. State of Maharashtra and others.

93. I have carefully the above submission advanced by the respective counsels of both parties. The entire contention is around government circular. According to disputants, all stages mentioned in the circular are mandatory but opponents have not complied the same. Even bank guarantee is not taken. On the contrary, GR dated 04/07/2019 is directory and opponent have followed the guidelines of the government Circular. Hence, to appreciate above arguments, I am reproducing some relevant portions of the said circular which are regarding re-development of building of housing societies as under. :--

Point no.5. To arrange Special General Body Meeting for the redevelopment of the building of the society:-

Not less than 1/5 of the members of the societies who are intending to undertake the redevelopment of the buildings of the Co-operative Housing Societies should submit an application for arranging a Special General Body Meeting to decide the policy to undertake redevelopment of the building of the society with their plan and suggestions regarding the redevelopment of the building to the Secretary of the Managing Committee of the society duly elected according to



the bye-laws of the society and constituted according to the Act. After the receipt of the applications, the Secretary of the Society after taking note of it in the Managing Committee Meeting within 8 days, shall call Special General Body Meeting within 2 months. The Agenda of the meeting should be given to each member of the society before 14 days of the meeting and its acknowledgement should be kept with the office record. Before calling the said meeting, the managing committee of the society shall call at least 3 quotations for preparing Project Report of the redevelopment work of the building from the Project Management Consultant on the panel of Government/Local Authority comprising of registered Architects from the Council of Architecture under the Architect Act, 1972 and one expert person amongst them shall be selected in the Special General Meeting.

Point no.6. In view of the transparency, the proposed redevelopment societies shall create web site on the internet.



Point no.8. Subject-wise business in the said Special General Meeting shall be transacted as follow:

- i To take primary decision by considering the demand of the members and the suggestions received regarding making the redevelopment of the building of the society.
- ii. To select expert and experienced Architect/Project Management Consultant on the panel of the Government/Local Authority for the work of redevelopment

of the building and to fix the scope of work to be done by them and terms/conditions.

iii. To submit the framework of the programme of the redevelopment of the building.

9. To accept written suggestions of the Members regarding the redevelopment of the building:-

The Members of the Society may submit their realistic plans, suggestions and similarly the names of experienced and expert Architects/Project Management Consultant on the panel known to them in written to the committee before 8 days of the meeting. But the consent letter of Architect / Project Management Consultant that he is ready to do the said redevelopment work should be submitted to the society.



Point no.10. Decision to be taken in the Special General Body Meeting :-

(10) The quorum of the Special General Body Meeting called for the redevelopment of the Building of the Co-operative Housing Society shall be 2/3 of the total number of members of the society. If quorum is not fulfilled, the said meeting is adjourned and by giving 7 days notice, the said meeting shall be again arranged within next 1 month. If again quorum is not fulfilled in the said meeting then the meeting shall be cancelled by assuming that the members are not interested in the redevelopment of the building of the society and the said subject cannot be brought for the approval before the Special General Body Meeting for up to next 3 months. Suggestions, recommendations and objections of all members regarding the redevelopment of the society shall be considered in the

Special General Body Meeting and the opinions of all members expressed in this regard shall be mentioned with name in the minutes of the meeting. The primary decision regarding whether the redevelopment of the society to made or not will be sanction in this General Body Meeting with not less than minimum 51% of the total number of members at the majority of the members present. Approval of minimum 51% members of the total number of members of the society shall be necessary for the said decision. For this, any type of approval, opinion, remarks whether written or oral of any absent member shall not be considered in the General Body Meeting.

Thus, the said decision shall be approved by the majority not less than 51% of the number of total members of the society. (For e.g. If one of the Housing Society's total membership is 100, the quorum for the Special General Body Meeting arranged for the redevelopment of the society shall be 66.66 Le 67 members and for the majority, the approval of 51 or more members of it shall be necessary. That means if 67 members are present to that meeting, then for the majority, out of the 67 members present, the approval of 51 or more members shall be necessary. Similarly if 75 members are present, even then for the majority out of the 75 members present, 51 or members' approval is necessary and accordingly continue).



Point no.12. To take written consent letter of the members for the proceedings of the redevelopment :-

As mentioned above, after the passing of the decision of making redevelopment by majority in the General Body meeting by not less than 51% of the total members, it is necessary for the managing committee to take written consent letter of the member registering the vote in favour of the redevelopment resolution for taking further action in respect of the redevelopment.

Point no. 13. To give appointment letter to the Architect / Project Manager Consultant :-

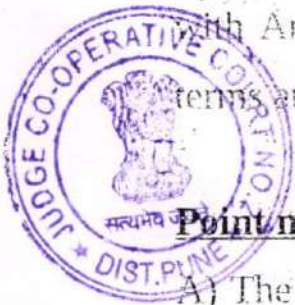
The Secretary of the society shall give appointment letter to the Architect/Project Manager Consultant selected in the Special General Body Meeting within 30 days from the date of the meeting and the committee will execute agreement with Architect/Project Manager Consultant according to the terms and conditions approved in the General Body Meeting.

Point no.16. To publish the list of the tenders received :-

A) The Secretary of the Society shall prepare the list of how much tender received on the last day of the tender to be received and published the same on the Notice Board of the Society.

B) The Secretary of the Society shall call the meeting of the Managing Committee of the Society within 15 days after the last date of the tender to be received. Tendered or his authorized representatives and the willing members in the society cannot be prohibited from attending the said meeting.

The tender received shall be opened in the presence of all. Architect/Project Management. Consultant shall prepared



comparative table by scrutinizing all tenders and b checking the merit, reputation, experience and competitive rates of the tender holders that received, if minimum 3 tenders are received, the approval shall give for tabling the said tenders before the Special General Body Meeting. Tender becoming competitive, it is necessary that minimum 3 tenders should be received. However, if less than 3 tenders are received, then at first, minimum one week extension should be given. Even after giving such extension, if less than 3 tenders received then second time again one week extension should be given. Even then also less than 3 tenders received then as many tenders received shall be approved for tabling before the Special General Body Meeting.

Point no.17. To select the Developer/Contractor:-

A) To appoint the Authorized Officer from the Registrar's Office for the General Body Meeting:-

The Special General Body Meeting of the Society shall be called for selecting the Developer on the basis of his experience, merit, financial capability, technical capability and competitive rates from the tenders selected by the Managing Committee of the Society with the help of the Architect/Project Management Consultant. The Managing Committee should submit the application within 7 days with the list of the members to the Registrar for appointing the Authorized Officer to take the said Special General Body Meeting in his presence. The Registrar shall appoint the Authorized Officer by taking decision on this application. It is necessary that minimum one project of the selected



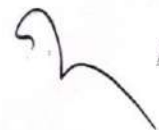
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Developers or their Associates or Assistants should be registered with Maha RERA.

B) To call Special General Body Meeting for finalizing the Tender:-

After the appointment of Authorized Officer, the Secretary of the Society shall call the Special General Body Meeting within one month with the prior permission of the Authorized Officer and by fixing the time and place for the appointment of the Developer and by sending the Agenda of this meeting to all Members before 14 days of the meeting by hand delivery and Registered Post and similarly by e-mail to the members resides outside India and its acknowledgement shall be kept with the record of the society. The Secretary of the Society shall upload the agenda on the web site of the society prepared for the redevelopment work. The representatives of the of the Registrar Office shall ascertain that the authorized representatives of those, whose tenders are to be submitted are present.

Similarly make an arrangement of the video shooting of the Special General Body Meeting at the cost of the society. No one other than the bonafide member is allowed to be present in the said meeting. For this, it is necessary that the members should keep the identity card with them at the place of the meeting. While submitting the proposal of redevelopment for approval to the concerned Authority, it is necessary that the selection of the Developer and other working should be done in the presence of the Authorized Officer in the office of the Architect/Project Management Consultant.



94. Taking into account foresaid para-wise detailed discussion and documents in the light of guidelines in the government circular stated supra, it appears at this juncture that opponent society very well complied all stages provided in the circular such as requisition of 1/5 members for redevelopment, calling special general body meeting, calling 3 quotation by managing committee prior to said meeting, passing all resolution in special general meeting by majority relating to re-development, taking consent of members, appointing Architect, publishing tender, preparing feasibility report, selection developer etc..

95. As far as bank-guarantee is concerned, according to opponent, it not mandatory. Opponents counsel pointed out MOU and submitted that builder has given guarantee. I perused copy MOU filed by disputants with exh.21. Clause no.5 is regarding security of project. It is mentioned that the developer has agreed to provide bank guarantee in the form of



two number of unsold flats shall be lean marked once and shall be kept towards security for the completion of construction. I also perused citation i. e. Deepak Abavi Gami Vs. State of Maharashtra and others and Nitin Ambavi Gami Vs State of Maharashtra and others, bearing w.p. no.30977/2022 and 30989/2022 dated 18/10/2022 on which opponents placed reliance pertaining to bank guarantee. In the said matter issue regarding bank guarantee in view of circular dated 04/07/2019 was involved. Their lordship in para no13 held that “ so far as the condition regarding deposit to 20%

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bank guarantee is concerned, in my opinion, the same has to held as recommendatory in view of the decision of this court in Maya Developers and as in the facts of the present case, in any event an adequate security is provided by the developer. The developer in the development agreement has agreed to provide 7 flats as and by way of security to the society”.

In the case in my hand MOU held between opponent society disclose that the developer has agreed to provide bank guarantee in the form of two number of unsold flats. Hence considering said ratio and condition regarding security mentioned in the MOU, I do not find legal substance in contention of disputant that opponent society has not taken security from the builder and acted contrary to the government circular.



Next issue is that whether circular dated 04/07/2019 is mandatory or directory. As per section 79-A Government has power to give directions in the public interest on receipt of a report from the Registrar or otherwise is satisfied or for the purpose of securing proper implementation or cooperative production and other development programmes approved or undertaken by government or to secure proper management of the business of the society generally or for preventing the affairs of the society being conducted in a manner detrimental to the interest of the members or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, the state government may issue directions to them from time to time and all societies or the societies concerned

as the case may be shall be bound to comply with such directions.

97. Disputant counsel relying on the word “ shall” on the last line of the said section strongly submitting that the foresaid circular is mandatory. It is settled position of law that while considering any provision whether it is mandatory or directory, it ought to have got from the intent of the legislature behind the provision. I have carefully gone the case laws i.e. (1) Maya Developers Vs. Neelam R. Thakkar and others. (2) Harish Arora Vs. Deputy Registrar Cooperative Societies and others. (3) Devendra Kumar Jain Vs. State of Maharashtra and others., on which placing reliance, opponents counsel argued that said circular is directory.

98. **In the case of Maya Developers Vs. Neelam R. Thakkar and others**, issue of re-development of building was involved. In the said matter their lordship held that “ *It is impossible to accept submission that the 2009 directives are mandatory.*”



In the case of Harish Arora Vs. Deputy Registrar Cooperative Societies and others. Their lordship examined scope and ambit of the powers conferred by section 79-A of the MCS Act and observed in para no.47 that “ *government resolution of 4th july 2019 is directory in nature. Its guidelines are intended to be followed to ensure a fair and transparent redevelopment process. If the managing committee*

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substantially adheres to the mandate, for example, by informing members, taking a majority vote, selecting developer in a broadly competitive manner, then it can not be said to have failed to comply merely because an arithmetical requirement or a documentation formality was not fulfilled to the letter. As observed in Maya Developers, " it is sufficient if participation, notice and disclosure were ensured with majority will prevailing in a properly convened meeting. This ensures autonomy of co-operative society in decision making which is itself a goal of the co-operative law".

In the case of Devendra Kumar Jain Vs. State of Maharashtra and others bearing w.p. no.7536/2025 dated 06/10/2025, their lordship has considered government circular issued under section 79-A and observed in para no.2.6 that "government resolution of 4th july 2019 is directory in nature. Hence, considering ratios stated supra and provision of section 79-A, contention of disputants that said circular is mandatory is not acceptable. Therefore, I do find substance in the argument of opponents counsel as stated supra.

99. Disputant counsel further argued that opponent no. 1 to 9 are intending to execute the memorandum of understanding and further enter into redevelopment agreement without bank guarantee with the developer Rui. Universal realities and committing illegality. Therefore, it is necessary to grant temporary injunction against opponents as prayed in this application.

100. Against which opponents counsel submitted that Memorandum of Understanding have been already executed with the Rui Developers LLP. Therefore, this part of the prayer becomes infructuous. Copy of the MOU is submitted by the Disputants on record at Exh. 21. She further submitted that disputants prayer at (vii) regarding the injunction against implementation of resolutions passed in the meeting dated 14/02/2025 and 30/07/2025 are not tenable as disputants have not filed the copies of notice, minutes and resolutions passed in the alleged meetings. Disputants have failed to make out a case for grant of interim injunction. Disputants have failed to demonstrate any prima facie case. The resolutions impugned by the Disputants have been passed by the Society in duly convened meetings and by overwhelming majority of the members after following a transparent process. The balance of convenience lies entirely in favour of the Opponent Society and the majority of its members who have consciously approved the redevelopment process. Granting an injunction at this stage would unnecessarily stall the redevelopment process and cause serious prejudice to the larger body of members. Therefore, the application deserves to be rejected.



101. Turning to case laws filed by disputant i.e. Venus Co-operative Housing Society and Ors. vs. J.Y. Detwani and Ors., In this matter their lordship held in para no.9 that “ *the supremacy of the general body can not be disputed but even the supreme general body has to be reasonable and has to pass rational resolution considering all the facts and circumstances of the matter. The general body can not pass*

arbitrary and unreasonable resolutions merely because it is supreme and it has a large majority in favour of one of the issues on the agenda".

Disputants failed to prove and point out prima facie that the impugned resolutions are passed arbitrary and are against the interest of opponent society and its members and are contrary to the provision of MCS Act, Rules and are contrary to the spirit of the above stated government circular. Hence, with great respect, this ruling is not in any way helpful to disputants.

102. It is already cleared in the fore-said discussion that opponents have taken surety from Rui builder as per MOU held between them. It is also cleared that re-development processes started by opponent society is in accordance with government circular and all decisions relating to re-development are taken by passing resolution in special general meeting with thumping majority. Hence considering all the above executive discussion, documents and case laws cited by opponents, I am of the opinion that disputants have no such strong prima facie case to restrain impugned resolutions as prayed. In the result, I answered point no.1 as to negative.

Point no.2 & 3:--

103. In the discussion of point no.1, it is cleared that disputants have no prima facie case. Whether impugned resolution are illegal and contrary to the government circular dated 04/07/2019 are all triable issue involved in the dispute

which required full trial and can not be adjudicated at the interim statge. The majority of members accepted and approved redevelopment process. Hence balance of convenience appears to be in favour of opponents and not in favour of disputants. As far as irreparable loss is concerned, if the injunction as prayed is granted then re-development process started by opponent society will cause serious effect and also will cause serious prejudice to the majority of members who are waiting for the redevelopment. On the other hand if this application is rejected then I do not find any legal and probable reason to cause any prejudice to disputants as their grievances relating to the their flat area is already considered by opponents. Hence, I hold that disputant failed to prove that balance of convenience lies in their favour and irreparable loss would be caused to them if temporary injunction as prayed is not granted. In the result, I answered point no.2 & 3 as to negative.



104. Considering my negative answers as to point no.1 to 3, I came to the conclusion that this application has no merit and it is liable to be rejected. In the result, I proceed to pass following order. :--

:-ORDER:-

1. All reliefs sought by way of temporary injunction application below exh.5 by disputants is rejected.
2. No order as to costs.
3. Order pronounced in open court.

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Dispute No: 240 Of 2025

Date:- 10/08/2026

Place: Pune



Date.: 10/08/2026

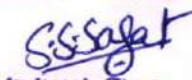
Place.: Pune


(Hansraj K. Wankar)
(Judge)

Co-operative Court No.2, Pune.

मकल अर्ज तारीख.....11-08-2026
मकल तयार तारीख.....12-08-2026
मकल मिळाल्याची तारीख.....12-08-2026
मकल तयार करणार.....Xerox
मकल तपासणार.....88

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Judicial Clerk

Co-operative Court No. 2, Pune

