

# SAHAKAR MITRA

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## Deemed Conveyance and disputes of ownership

As per MOFA and now RERA Promoter is under obligation to convey right, title and interest in the land and building to society. Sometimes Promoter fails to perform this obligation therefore process of deemed conveyance comes to action.

Act provides for competent authority to perform function of deemed conveyance. Normally District Deputy Registrar performs this function. Bombay High court in Mazda Construction Company And Others Vs. Sultanabad Darshan CHS Ltd. And Others has explained that what is to be performed by the Competent Authority is a duty and obligation which the promoter is to perform in law. That is to convey the title and execute the documents according to the agreement. In performing this act the Competent Authority cannot convey more than what the promoter had agreed to convey under the agreement executed under Section 4 of the MOFA Act. Deemed conveyance cannot convey something more than what belongs to the Promoter.

**What is scope of enquiry in ownership of promoter:** The Competent Authority is formed to adjudicate the nature of the obligation agreed upon by the promoter,

whether such obligation to execute conveyance became enforceable and whether the promoter committed default in executing conveyance. This is the scope of enquiry of the power of the Competent Authority. The Competent Authority has no power to hold an enquiry into that aspect of title nor is entitled to prevent a party from agitating a grievance as to the entitlement of the organization to have conveyance, before the Civil Court.

**Civil Remedy Still Available:** Division Bench judgment of Bombay High Court in the case of M/s. Shree Chintamani Builders Petitioner Vs. State of Maharashtra & Ors., reported in (2016) SCC OnLine Bom 9343 has observed that an order granting deemed conveyance would not conclude the issue of right, title of the immovable property. It was not as if such an order was passed, the owner/builder had no remedy to question the act of society on the strength of such deemed conveyance. It is open for the developer/owner to bring a substantive suit on the title and point out the issues concerning right, title or interest on the immovable property.

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#### **Good Practices in Housing Society Management :**

- The most basic function of cooperative housing societies is maintaining society . This needs money.
- Housing societies should regularly raise bills elaborating principle amount and period wise interest separately .
- It also should provide maintenance receipts regularly so that members next time

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## सहकारी संस्थांनी बंधनकारक दाखल करायची विवरणपत्रे ( Returns )

सहकारी संस्थांनी खालील विवरणपत्रे आर्थिक वर्ष संपल्यापासून सहा महिन्यात दाखल करणे बंधनकारक आहे .या कर्तव्यात कसून केल्यास कायद्यामध्ये दंडाची तरतूद आहे

१) कलम ७९ (अ ) खालील विवरणपत्रे

अ)संस्थेच्या कार्याचा वार्षिक अहवाल .

आ) संस्थेचा ऑडीट रिपोर्ट

इ) संस्थेच्या सर्वसाधारण सभेने मान्यता दिल्याप्रमाणे शिल्लक रकमेच्या खर्चाची योजना

ई) संस्थेच्या उपविधी (bye-laws ) मध्ये करावयाच्या सुधारणा

उ) संस्थेच्या वार्षिक सर्वसाधारण सभेची तारीख आणि निवडणूक घेणे आवश्यक असल्यास निवडणुकीच्या दिनांक बाबत प्रतिज्ञापत्र

ऊ)निबंधकांना आवश्यक असेल ती इतर माहिती

२) कलम ७९ (१ब ) नुसार संस्थेने सहकार विभागाच्या पॅनल वरील नियुक्त केलेल्या लेखापरीक्षक (auditor) चे नाव आणि त्यांचे संमती असलेले पत्र हे वार्षिक सर्वसाधारण सभेच्या दिनांकापासून एका महिन्यात निबंधकाला सादर करणे आवश्यक आहे .

वरील विवरणपत्रे हे या <https://mahasahakar.maharashtra.gov.in> वेबसाईट वर online भरायची आहेत .

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## सहकारी संस्थामधील वादासाठी योग्य न्यायालये

सहकारी संस्थेच्या कामकाजामध्ये सभासद , संस्था , बँका, जमिनीचे मालक इत्यादी अशा बऱ्याच व्यक्तींचा संबंध येत असतो . सहकारी संस्थेच्या वाद निराकरणासाठी उपनिबंधक , सहकारी न्यायालये , दिवाणी न्यायालये आणि महानगर पालिका इत्यादी वेगवेगळे फोरम उपलब्ध आहेत . वाद कशाविषयी आहे ह्यावरून दावा दाखल करण्याचे न्यायालये ठरवली जातात . चुकीच्या ठिकाणी दाद मागण्याने विनाकारण विलंब आणि इतर कायदेशीर प्रश्न तयार होऊ शकतात.

**निबंधक:** संस्थेची नोंदणी , भाग दाखला , सभासदत्व नाकारणे , ट्रान्स्फर फीस , लेखापरीक्षण आणि हिशोब , मॅटेनन्स ची वसुली इत्यादी विषय

**सहकारी न्यायालये :** संस्थेचे गठन ,संस्थेच्या निवडणुका , सर्वसाधारण सभा , संस्थेचे ठराव आणि संस्थेचे व्यवस्थापन इत्यादी

**दिवाणी न्यायालये :** जागेच्या मालकी संबंधी वाद , त्रयस्थ व्यक्तीसोबातचे दिवाणी स्वरूपाचे वाद

**महानगर पालिका :** सदनिका वापरातील बदल , ले आउट मधील बदल , मंजूर बांधकामात बदल , अतिक्रमण इत्यादी

टीप :वरील यादीमधील विषय हे सर्वसाधारण स्वरूपाचे असून प्रत्येक दावा हा वेगळा असतो . त्यामुळे तज्ञ कायदेशीर सल्लागाराकडून सल्ला घेणे उचित आणि आवश्यक असते .

***-This newsletter is compiled by Team Property Legal***

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