



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.15253 OF 2023.**

Lodha Belmondo Hsg. Federation Ltd. ]  
 A federation registered under the provisions of ]  
 the Maharashtra Co-operative Societies Act, ]  
 1960 through its Chief Promoter ]  
 Mr. Surendra Atre ]  
 Age about 64 years, Occu: Retired. ]  
 Office at Estancia CHS Ltd, ]  
 Gat No. 205,221, 225, 227, 228-247 (part), ]  
 Gahunje, Taluka Maval, ]  
 District : Pune 412101. ]

**...Petitioner.**

**Versus**

1. State of Maharashtra ]  
 through its Principal Secretary, ]  
 Co-operation Department, ]  
 Having office at Mantralaya, ]  
 Mumbai 400032. ]
2. Macrotech Developers Ltd.a ]  
 A public registered Company, ]  
 Incorporated under the provisions ]  
 of Companies Act, 1956 ]  
 Having office at Lodha Exclous, ]  
 Appollo Mills Compound, ]  
 N.M. Joshi Marg, ]  
 Mahalaxmi, Mumbai – 400011. ]  
 Through its Authorised Representative ]  
 Mr. Surendra Nair. ]
3. Divisional Joint Regitrar, ]  
 Cooperative Societies, Pune Division, ]  
 having office at : Ground floor, ]  
 Sahakar Sankul, Shivaji Nagar, ]  
 Pune 411005. ]
4. Assistant Registrar, ]  
 Cooperative Societies Maval, ]  
 Taluka Maval, District : Pune. ]

**...Respondents.**

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*Dr. Abhinav Chandrachud, Ms. Madhavi Tavanandi and Mr. Suraj Chakar for the Petitioner.*

*Mr. Atul Damle, Senior Advocate along with Mr. Amogh Singh, Ms. Shilpa Nair, Mr. Himanshu Mishra i/b Jeet Gandhi for the Respondent No.2.*

*Mr. Dinyar Madon, Senior Advocate along with Mr. Uttam Shukla, Mr. Aditya Dhatrak i/b Ankit Pandey for Intervenor and Respondent No.5.*

*Ms. Tanu Bhatia, AGP for the Respondent-State.*

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**Coram : Sharmila U. Deshmukh, J.**

**Reserved on : September 5, 2024.**

**Pronounced on : November 22, 2024.**

**JUDGMENT :**

- 1. *RULE.*** Rule made returnable forthwith and taken up for hearing with consent.
- 2.** By this petition, exception is taken to the judgment and order of dismissal dated 11<sup>th</sup> July 2023 passed by the Respondent No.1 in Revision Application No. 528 of 2023 preferred against the order dated 29<sup>th</sup> August 2022 passed by the Divisional Joint Registrar.
- 3.** Aggrieved by the registration of the Petitioner as Federal Society, the Respondent No.2-Developer filed Appeal No.76 of 2022 under Section 152 of the Maharashtra Co-operative Societies Act, 1960 [for short "***MCS Act***"] which was allowed by order dated 29<sup>th</sup> August 2022 resulting in de-registration of the Petitioner Federation. As against this, the Revision Application filed under Section 154 of MCS Act before Respondent No.1 came to be dismissed by the impugned

judgment and order dated 11<sup>th</sup> July 2023.

4. The facts borne out from the record are that six Co-operative Housing Societies comprising of 28 buildings constructed by Respondent No.2 on land bearing Gat No.205, 221, 225, 227 and 228-247 (Part) of District Pune came together for the purpose of forming a Federal Society. The six societies are part of a larger layout which layout includes country houses, villas and is an ongoing project. Pursuant to Agreements executed with Respondent No 2 under Section 4 of the Maharashtra Ownership of Flats (Regulation of Promotion of Construction of sale, Management and Transfer) Act, 1963 [for short "**MOFA**"] members were put in possession of their individual tenements and came to be registered under the Maharashtra Co-operative Societies Act, 1960 as Co-operative Housing Societies during the period 2018-2021.

5. On 22<sup>nd</sup> April 2022, an application was filed by the Petitioner under Rule 4(1) of the Maharashtra Co-operative Societies Rules, 1961 [For short "**MCS Rules**"] seeking registration as federal societies and on the very same day i.e. on 22<sup>nd</sup> April 2022, the Assistant Registrar issued the registration certificate and classified the Petitioner under Rule 10 of Maharashtra Co-operative Societies Rules, 1961 in the Class of "General Society" and sub Class of "Other Society".

6. By communication dated 24<sup>th</sup> May 2022, the Petitioner

intimated the Respondent No 2 about the registration of Petitioner as Housing Federation and called upon Respondent No.2 to transfer and hand over management and financial control of all the common amenities.

7. Upon being made aware of the registration of Petitioner Federation, the Respondent No 2 preferred an Appeal under Section 154 of MCS Act on 30<sup>th</sup> May 2022, challenging the registration. The Appeal was resisted by the Petitioner vide reply dated 13<sup>th</sup> June 2022. By order dated 29<sup>th</sup> August 2022 passed by Respondent No.3, the Appeal was allowed and registration of the Petitioner stood cancelled on the ground of non compliance of the procedure under Rule 9(1)(ii) of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 [for short "**Rules of 2017**"] framed under the Real Estate (Regulation and Development) Act, 2016 [for short, "**RERA**"].

8. Revision Application No.528 of 2022 was preferred by the Petitioner before Respondent No.1, which was dismissed vide impugned order dated 11<sup>th</sup> July 2023.

9. In the present Petition, the owners of the villas, country houses and flats in the said project filed Intervention Application being Interim Application(Stamp) No.24619 of 2024, which was allowed by

this Court.

**SUBMISSIONS:**

**10.** Dr. Chandrachud, learned counsel appearing for the Petitioners submits that the Petitioner was duly registered as Federal Society having complied with the minimum requirement of five societies as mandated under Section 8 of the MCS Act. He submits that the registration is in consonance with Clause 14 of the Flat Purchaser's Agreement which provides for formation of ultimate organisation. He submits that the one of the grounds of challenge by the Respondent No 2 is that the project is ongoing, however, no details are given in that respect. He submits that the apprehension of Respondent No.2 is misplaced as the Petitioner Federation has not taken charge of any part of the layout by reason of registration.

**11.** Assailing the impugned orders, he would submit that Respondent Nos.1 and 3 have cancelled the registration by holding the same to be in violation of Rule 9(1)(ii) of the Rules of 2017 which casts an obligation on the Promoter to form the Apex Body within a period of three months from receipt of occupancy certificate of last of the building to be constructed in the layout. He submits that the Authorities constituted under the MCS Act have assumed the jurisdiction under RERA while adjudicating the Appeal under Section 152 of MCS Act by coming to a finding of non compliance of Rules of

2017. He would submit that even otherwise there is no conflict between RERA and MCS Act and the Rules framed under RERA being subordinate legislation will not override the statute i.e. MCS Act. He submits that both the statutes have to be read harmoniously and Rule 9(1) (ii) of Rules of 2017 cannot be interpreted in such a manner as to take away the statutory right of the five societies desiring to form a Federal Society, irrespective of whether the project has been completed or not.

**12.** He submits that similarly the contractual arrangement under MOFA cannot take away the statutory right to form a Federal Society. He submits that the RERA registration was of the housing project. He would further point out Section 88 and 89 of RERA which provides that RERA will be in addition to and not in derogation of the provisions of any other law and that RERA will have an overriding effect. He submits that MCS Act does not impose any obligation on the Promoter to form the Co-operative Society which is an obligation under MOFA. He submits that Section 8 and 9 of the MCS Act does not require completion of the project. He would further submit that if developers are permitted to adopt a stand that till the entire project is completed the provisions of MCS Act as regards registration of Federal Society is to be kept in abeyance, then the developer can frustrate the process by keeping the project incomplete, which is not in the interest of the

flat purchasers.

**13.** He submits that the requirement under MCS Act was positioned at membership of five societies for registration of Federation which was met and no further inquiry was warranted by drawing attention of this Court to Section 6(3) , Section 8(2)(b), Section 9(1) and the amended Section 154B-2 of MCS Act. Dealing with the Affidavit of Intervenors, he submits that the classification of the Petitioner Federation is within the powers of the Assistant Registrar and the said classification is mere irregularity and is immaterial for purposes of deciding validity of Registration. In support he relies upon the following decisions:

***Indian Ex-servicemen Movement v. Union of India*<sup>1</sup> ;  
*Indian Express Newspapers v. Union of India*<sup>2</sup> ;  
*Owners & Parties Interested in the Vessel M. V. Polaris Galaxy v. Banque Cantonale De Geneve*<sup>3</sup> ;  
*Airoli Neha ..... Society v. State of Maharashtra*<sup>4</sup> ;  
*W.M.M.S.Sanstha v. Commr. of Fisheries*<sup>5</sup> ;  
*Noopur Developers v. Himanshu*<sup>6</sup> ; and  
*State of UP v. Sudhir Kumar Singh*<sup>7</sup>.**

**14.** *Per contra* Mr. Damle, learned Senior Advocate appearing for Respondent No 2 Developer would contend that the registration certificate was issued without any adjudication and without notice to

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1 (2022) 7 SCC 323.

2 (1985) 1 SCC 641.

3 (2024) 5 SCC 750.

4 2023 (3) Mh.L.J. 529.

5 2020 (1) Mh.L.J. 864.

6 2010 (7) Mh.L.J. 694.

7 (2021) 19 SCC 706.

the Developer. He submits that it is not the Petitioner's case that the Promoter has failed to comply with its obligation in forming the Apex Federal Society. He submits that the rights of the parties flows from the agreement and has pointed out various clauses of the agreement under which the formation of the ultimate organisation is agreed upon. He would further submit that the competent authority has been appointed under Section 5A of MOFA for the purpose of performing duties under Section 5, 10 and 11 of the MOFA in event of default by Promoter. He submits that 3<sup>rd</sup> proviso to Section 10 provides for giving opportunity to the promoter of being heard before registration of the Society and although Section 10 refers to the Co-operative Society same principles will apply where a Federal Society is sought to be registered. He submits that Respondent No.2 will form the Apex Society after the layout is developed. He submits that it is not open for the Petitioner to contend that only the provisions of MCS Act can be looked into by ignoring the provisions of MOFA and RERA and in particular considering Sections 88 and 89 of RERA. He would further point out that the bye laws of the Petitioner Society sets out that the stated object is to claim the common amenities and for management of the layout. He submits that in the application filed by Respondent No.2 various grounds of challenge were raised and though the Authority had allowed the Application only on the ground of violation



of Rule 9(1) (ii) of Rules of 2017, the order can be supported on other grounds.

**15.** Mr. Madan, learned Senior Advocate appearing for the Intervenor would submit that registration of Petitioner as Federal Society vests a right to seek conveyance in an under construction project affecting the rights of the Developer and the other flat purchasers in layout as the common amenities would then be controlled by the Federal Society. He would point out the fallacy in the submission of Dr. Chandrachud that no other Act are required to be looked by drawing attention to Section 9 of MCS Act, which after the 1986 amendment, provides for compliance of the other laws for the time being in force. He has taken this Court through various clauses of MOFA agreement and would submit that Clause 14 stipulates formation of ultimate organisation and clause 15 and 17 provides for maintaining the areas and amenities by a Facilitating management company as the project has various luxurious amenities such as golf, spa, club house which would require experts to maintain the amenities. He submits that the flat purchasers were driven to invest in the project on basis of the high-end facilities offered and therefore the flat purchaser's agreement provides for appointment of Facilitating Management Company, which if not enforced, would result in destroying the luxurious amenities.

**16.** He would further submit that the Petitioner is classified as an General Society whereas it is required to be classified as Apex Society under Rule 10 which requires separate criteria to be fulfilled and results in separate consequences. He submits that in case of Apex Society, provisions of MOFA and RERA would also be applicable which may not to be applicable to the General Society. He further submits that there is no conflict between MCS Act and RERA/Rules of 2017 and it is settled position in law that MOFA and RERA being special statutes would prevail upon general statutes i.e. MCS Act and in case of conflict between two special statutes the subsequent statute will prevail. He submits that there has to be harmonious construction of the various statutes.

**17.** In rejoinder, Dr. Chandrachud, would submit that registration under MCS Act is not on the ground of non compliance of MOFA obligations. He submits that contractual agreements under MOFA cannot take away the statutory rights. He would further submit that Section 10 of MOFA obliges the promoter to form Co-operative Society and not Apex Society. He would submit that the proviso as regards giving reasonable opportunity of being heard applies where the Co-operative Society is being registered and not where the Federal Society is being registered. He submits that Respondent No.2 will have to show prejudice caused to them by reason of not being heard and in

any event in the appeal proceedings the Petitioners were heard. He would further submit that whether the Apex Society could seek conveyance under Section 11 is an academic exercise and that is subsequent act which will have to be tested in an appropriate proceedings.

**REASONS AND ANALYSIS:**

**18.** The seminal issue arising for consideration is whether Rule 9(1) (ii) of Rules framed under RERA entrench upon the right of the Co-operative Societies to seek registration as Federal Society under the MCS Act upon meeting the registration condition of having five member societies.

**19.** The undisputed position is that the Co-operative Societies owing allegiance to the Federation are part of an under construction larger project. Apart from the members of the Petitioner Federation, the layout includes 61 country houses and 28 villas. The project developed by the Respondent No 2 is registered under RERA, the flat purchaser's agreements are executed under the provisions of MOFA and registration of Petitioner is sought under MCS Act.

**20.** The MCS Act of the year 1960 is a State Law enacted to consolidate and amend the law relating to Co-operative Societies in the State of Maharashtra with a view to provide orderly development of the co-operative movement. MOFA is a State enactment of the year

1963 for regulating the promotion of construction of, the sale and management and the transfer of flats on ownership basis. RERA is a Central Legislation of the year 2016 enacted to regulate transactions between allottees and promoters of real estate projects to ensure that the sale of plot, apartment or building or sale of real estate project is conducted in a transparent and efficient manner. Section 92 of RERA repealed the Maharashtra Housing (Regulation and Development) Act, 2012, which had repealed MOFA. Both the MOFA and RERA are regulatory regimes to regulate the transactions of real estate projects.

**21.** MCS Act is relatable to Entry 32 of List II of Seventh Schedule of Constitution of India dealing with Co-operative Societies. RERA is a Central enactment relatable to legislation of subject contained in Entries 6 and 7 of List III (Concurrent List) of Seventh Schedule of Constitution of India. The MCS Act is a State Law governing the field of co-operative societies where RERA is a Central legislation on subject of transfer of property, registration of deeds and documents and contracts. There is no question of conflict between MCS Act and RERA as the legislative fields are different and distinct. Conflict may arise where State legislature seeks to exercise its power over the same subject matter legislated by Parliament.

**22.** One of the tests of repugnancy, as is well settled, is that there must be a direct conflict or inconsistency between the provisions of competing statutes. Before this Court, it is nobody's case that there is any conflict between the MCS Act and RERA. It is also well settled that Legislative Act will prevail over subordinate legislation, however such a question will not arise for consideration. Section 88 of RERA provides that the provisions of the Act are in addition to and not in derogation of the provisions of any other law for the time being in force. All parties submit in unison that there has to be harmonious construction of both the statutes.

**23.** With this background, if the provisions of MCS Act are seen, Section 6(3) prescribes the minimum requirement of five societies as members for registration as Federal Society. Section 8 provides that the application for registration must be signed by at least five societies for registration of Federal Society. Relevant for our purpose is Section 9(1) of MCS Act which reads thus:

“If the Registrar is satisfied that a proposed society has complied with the provisions of this Act and the rules or any other law for the time being in force or policy or directives issued by the State Government under Section 4 and that its proposed bye-laws are not contrary to this Act or to the rules, he shall within two months from the date of receipt of the application register the society and its bye-laws.”

**24.** The words “any other law for the time being in force” were introduced by the Amendment Act 20 of 1986 thereby changing the

complexion of the requirements, which was prior to the amendment , confined only to compliance with the provisions of the MCS Act and the Rules framed thereunder. By virtue of the amendment, the Registrar has to now arrive at a satisfaction that there is compliance with the other applicable laws which necessarily mean the other laws relatable to registration before ordering registration. The MCS Act governs the registration of the Co-operative Societies, which Co-operative Societies in the present case are a product of the development carried out under the regulatory regime of RERA and MOFA and therefore the enactments have to act in tandem.

**25.** MOFA and RERA are enactments which are not alien to the aspect of formation of Federal Society as these enactments regulate the transactions between the allottees and promoters of the real estate projects and would be covered by the expression “any other laws for the time being in force”.

**26.** Rule 9(1)(ii) of Rules of 2017 framed under RERA imposes an obligation on the Promoter to form the Apex Body within a period of three months from the date of receipt of occupancy certificate of the last of the building which was to be constructed in the layout and in event of default of the Promoter empowers the Authority to direct the formation of Apex Body. The formation of Apex Body is thus mandated after the date of receipt of occupancy certificate of the last

of the building to be constructed in the layout. The Rules of 2017 do not entrench upon the statutory right to form a Federal Society but prescribe the specific time period for formation of Federation Society in case of development of larger layout. The consideration of the Rules of 2017 or the provisions of MOFA cannot be said to place fetters on the statutory rights of the co-operative societies to seek registration as Federal Society. All that it mandates that while adjudicating such an application, the relevant applicable laws be considered in addition to the MCS Act and the Rules. The submission of Dr. Chandrachud that it is only the minimum requirement of five societies under MCS Act which is required to be considered and nothing further fails to notice Section 9(1) of MCS Act which enjoins the Registrar to consider compliance with the other laws for the time being in force.

**27.** In view of Section 9(1) of MCS Act, the provisions of Rule 9(1)(ii) of Rules of 2017 has been considered by the Appellate Authority and the impugned order rightly holds that the registration of Federation is pre-mature and not in consonance with RERA provisions as the layout is still under development.

**28.** The obligation imposed under Section 10 of MOFA is to form and register Co-operative Housing Society. The statutory provision of MOFA do not deal with formation of Federal Society and the issue of

registration of Federal Society will be governed by the contractual arrangements and Rules of 2017. MCS Act provides for minimum requirement of five societies and Rules of 2017 provides the time period for formation of Federal Society. Upon harmonious reading of MCS Act and Rules of 2017, in my view, the minimum requirement of five societies should be satisfied at the time period agreed by the contract and provisions of Rules of 2017.

**29.** Apart from the above, the Co-operative Housing Societies joining in the formation of the Federal Society have as its members the flat purchasers who are put in possession of their respective flats by virtue of agreements executed under Section 4 of MOFA. The Developer is statutorily mandated to execute a written agreement with the independent flat purchasers containing the particulars described in Section 4 of MOFA. The Rules framed under MOFA prescribe the model form of agreement in Form V. There is statutory recognition of the rights and obligations created upon the execution of MOFA agreement which constitutes a binding contract and there is no question of contractual rights yielding to the statutory rights or vice versa.

**30.** The relevant clauses of the flat purchasers agreement reads thus:



“1.11. “Federation” means a federation of the ultimate organization to be / may be formed under Clause 14 hereto. The nominees to the federation shall be the Chairman and/or Secretary (or equivalent) of each ultimate organization.”

“1.21 “Ultimate Organization” shall mean the Ultimate Organization to be formed in the manner contemplated herein.”

“14.1 The Purchaser along with other purchasers of units in the building shall upon completion of the project, join in forming and and registering the Ultimate Organization in relation to the Building to be known by such name as the Developer / Promoter may in its sole discretion decide for this purpose and from time to time sign and execute the application for registration and other papers and documents necessary for the formation and the registration of the Ultimate Organization and duly filled in, sign and return to the Developer / Promoter within 7 (seven) days of the same being forwarded by the Developer / Promoter to the purchasers so as to enable the Developer / Promoter to register the Ultimate Organization of the Unit purchasers.”

“14.2. The Purchaser agrees and undertakes to cause the Ultimate Organization to ratify and confirm that the name of the Building / and / or Ultimate Organization shall not be changed without prior written consent of the Developer / Promoter. The Purchaser is also aware for various other buildings to be constructed on the said property; various such ultimate organizations may be formed as per the terms decided between the Developer / Promoter and purchasers in the said buildings. The Developer / Promoter has also informed the Purchaser that an umbrella body, viz., Federation of such Ultimate Organizations in relation to the Building may be formed to manage all the common areas and amenities of the said property.

“14.3. Unless it is otherwise agreed to by and between the Parties hereto and subject to the provisions hereof, the Developer / Promoter shall, subject to the terms of this agreement, upon the completion of entire development convey, transfer the said property to the federation formed as per Clause 14.2. It is further clarified that save and except the rights agreed to be conferred upon the Purchaser and/or the Ultimate Organization and/or the Federation, no other rights are contemplated or intended to be conferred upon the Purchaser or the Ultimate Organization or the Federation, in respect of the said Building or the said property and in this regard the Purchaser for himself and/or the Ultimate

Organization, waives all his rights and claims and undertakes not to claim and cause the Ultimate Organization not to claim any such right in respect of the building or the said property.”

“15.1. The Purchaser is aware that the buildings including the building and maintenance of the common areas and amenities of the building / project / property the provision of services shall be managed by a Facility Management Company (FMC) appointed by the Developer / Promoter for a period ending upto 60 months from the date of offer of unit for fitouts or any period thereafter, which may be decided by the Ultimate Organization/ Federation. The Purchaser along with the other purchasers of the units shall be entitled to avail of the services to be provided or arranged by or through the FMC at the cost or charges that may be fixed by the FMC. All common costs, charges and expenses that may be claimed by the FMC shall be to the account of and borne by the purchasers of the Units and/or units in the building / project. These common costs shall shared by all such purchasers on a pro-rata basis determined by the Developer / Promoter and/or FMC which determination shall be binding on the purchaser.”

“15.2. The Purchaser agree and undertakes to cause the Ultimate Organization/Federation to be bound by the Rules and Regulations that may be framed by the FMC from time to time. The Purchaser along with the other purchasers in the building shall undertake and cause the ultimate Organization / Federation to ratify the appointment of FMC as aforesaid. The purchaser is aware that the Developer / Promoter not in the business of providing services proposed to be provided by the FMC or through the FMC. the Developer / Promoter does not warrant or guarantee the use, performance or otherwise of these services provided by the respective service providers/FMC. The parties hereto agreed that the Developer / Promoter is not and shall not be responsible or liable in connection with any defect or the performance / non performance or otherwise of these services provided by the respective service providers/FMC.”

**31.** The agreement between the parties is that upon completion of the project, the ultimate organisation of the flat purchasers of the respective buildings in the layout shall come into existence which shall join in the formation of the umbrella body i.e. Federation to whom the

Promoter shall convey, transfer the said property. It was also agreed that the common amenities provided for the entire layout such as golf course, club and spa shall be managed by a Facility Management Company.

**32.** The Petitioner's action is seeking formation of a Federation Society by coming together of five independent societies is clearly not in consonance with the agreement arrived at between the parties. As stated above, apart from 33 buildings constructed on the larger layout there are about 61 country houses and 28 villas who share the common amenities such as golf course, 50,000 square feet club house, gymnasium, restaurant, swimming pool, outdoor sports area, amphitheatre etc described in Annexure-IV of the flat purchasers agreement. Considering the nature of common amenities proposed in the larger layout, the agreement provided for appointment of an experienced facility management company.

**33.** As the parties are bound by the terms of the Agreement, the flat purchasers are obliged to wait until completion of the project and thereafter seek enforcement of the right of formation of a Federal Society of all the ultimate organisation. Although it is sought to be stated that the object of Federation is not to take over the layout, the consequence of the formation of the Federal Society will be that the Federation will be entitled to seek conveyance of the land and building

as also proportionate area of common amenities and in fact after the registration of the Federation, the Respondent No.2 developer had been called upon to hand over the management and the financial affairs to the Federation. The application by the Federal Society is not an innocuous application seeking registration but has larger ramifications on the entire project and the flat purchasers in the project.

**34.** Coming to the decisions which have been cited in support of the Petition, in the case of ***Indian Ex-servicemen Movement v. Union of India*** (supra) the Apex Court has reiterated the well settled position that the statutory provisions will have precedence over delegated legislation if there is conflict between the two. In the present case, it is not shown that there is any conflict and in fact Section 9 of the MCS Act provides for compliance of the other laws to be considered before the Society can be registered.

**35.** In the case of ***Indian Express Newspapers v. Union of India*** (supra) and in the case of ***Owners & Parties Interested in the Vessel M. V. Polaris Galaxy v. Banque Cantonale De Geneve*** (supra), the Apex Court has held that in case of *non obstante* clause appearing in two statutes and where the question arises as to which statutes would prevail as a general Rule special statute prevail over general statute and *non obstante* clause in a later statute prevails over a *non obstante*

clause in earlier statute is not absolute rule and would depend upon the object of enactment. There is no quarrel with the said proposition, however its application has not been demonstrated in the present case.

**36.** The decision in *Airoli Neha ..... Society v. State of Maharashtra* (supra) and *W.M.M.S.Sanstha v. Commr. of Fisheries* (supra) were rendered in the context of Section 21A and is therefore inapplicable.

**37.** In the case of *Noopur Developers v. Himanshu* (supra), learned Single Judge considered Rules 8 and 9 of MOFA in context of determining whether the promoter can indefinitely postpone the registration of the Society and thus retain FSI with him and it has been held that neither Rule 8 nor clauses in the agreement can be interpreted to give an unfettered right to the promoter to postpone registration of the Society and to take away right of the Flat owners. The said decision does not assist the case of Petitioner as it is the Petitioner's contention that it is not by the reason of non compliance of the obligation by the promoters that the registration on the Federal Society has been sought under the MCS Act.

**38.** In the case of *State of UP v. Sudhir Kumar Singh* (supra), in the context of violation of the principles of natural justice, the Apex Court held that unless prejudice is shown of principles of natural justice *per*

se does not lead to invalidity of the orders passed.

**39.** In light of the discussion above, the Authorities under the MCS Act have rightly considered the provisions of Rules of 2017 framed under RERA and have held that the application for registration of Federal Society is premature and not in consonance with Rules of 2017. There is no infirmity in the impugned order. Resultantly, Petition stands dismissed. Rule is discharged.

**40.** In view of the disposal of Writ Petition, nothing survives for consideration in the pending civil/interim applications and the same stand disposed of.

**[Sharmila U. Deshmukh, J.]**