Mere initiation or pendency of CIRP against a promoter, or a person claiming through the promoter, cannot be a ground for the Competent Authority to refuse to exercise jurisdiction under Section 11(3) and (4) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.

The **Bombay High Court** in the case of **Darshan Mandir Co-operative Housing Society vs District Deputy Registrar [Writ Petition No. 16318 of 2025] dated June 22, 2026**, has held that mere initiation or pendency of CIRP against a promoter, or a person claiming through the promoter, cannot be a ground for the Competent Authority to refuse to exercise jurisdiction under Section 11(3) and (4) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (MOFA). Grant of unilateral deemed conveyance is an exercise of statutory power to enforce performance of a statutory obligation in specie; it is not a suit, recovery proceeding, debt enforcement mechanism, or prohibited transfer of an asset of the corporate debtor under Section 14 IBC.

The Court also clarified that Section 238 IBC does not override Section 11 MOFA because there is no inconsistency between the two provisions in this context. Accordingly, the society need not approach NCLT under Section 60(5) IBC before seeking adjudication of its deemed conveyance application.

The Court observed that the statutory obligation to convey the land and building under Section 11(1) MOFA was originally that of Respondent No. 3, the developer who constructed the building, executed the flat purchase agreements, and expressly undertook the conveyance obligation in Clause 33. The Court noted that Respondent No. 4 was not the original promoter, but only a subsequent purchaser claiming through a later conveyance, and prima facie what it had acquired was only an obligation to convey property that was already statutorily meant to go to the society. The Court further noted that almost the entire development potential of the plot had already been consumed, making Respondent No. 4’s claim to independent subsisting rights in the land highly questionable.

The Court observed that proceedings for deemed conveyance under Section 11(3) and (4) MOFA are not in the nature of debt recovery, claim enforcement, or transfer of a corporate debtor’s asset in the ordinary sense. The Competent Authority performs a statutory function to perfect title in favour of flat purchasers, and this statutory function cannot be stalled merely because CIRP is pending against the promoter or a subsequent purchaser. The Court reiterated that statutory rights of third parties and statutory duties of authorities continue despite insolvency or moratorium, and that Section 14 IBC does not bar discharge of such statutory functions.

The Court also emphasized the legislative object behind the 2008 amendment introducing deemed conveyance under Section 11(2) to (5) MOFA. It said the amendment was brought in because developers were routinely delaying conveyance in order to exploit future development potential, additional FSI and TDR. If Section 14 IBC were interpreted to suspend deemed conveyance proceedings, errant developers could misuse moratorium to indefinitely postpone transfer of title, frustrating the welfare object of MOFA and even jeopardising redevelopment of ageing buildings in cities like Mumbai.