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When the Wrecking Ball Waits: How the Bombay High Court Unstuck a Bandra Redevelopment Without Trampling Dissent

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Redevelopment in Mumbai is rarely just about bricks and mortar. More often, it is about power, memory, and the stubborn mathematics of majority rule. When Polestar Realtors Pvt. Ltd. found itself staring at twenty-six holdouts in a sixty-three-member housing society in Bandra, the dispute landed before **Justice Amit Borkar at the Bombay High Court**.

He had to decide whether a developer could wrench a project back into motion through the emergency hatch of Section 9 of the Arbitration and Conciliation Act, 1996, without first resolving every grievance the dissenting members threw at him. The judgment, delivered on 17 July 2026 in *Polestar Realtors Pvt. Ltd. v. Rachana Coop. Housing Society Ltd. and Ors.*, offers a masterclass in how to keep a redevelopment project alive while refusing to let the courthouse become a demolition permit.

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Background: The Rachana Plots Lease and Early Litigation

The property at the heart of this fight is **Rachana Plots**, a parcel of land in Bandra that Polestar has owned since the early sixties. Back on 10 July 1960, its predecessors leased roughly 5,000 square yards to what eventually became Rachana Cooperative Housing Society Ltd. under a ninety-nine-year lease.

For decades the arrangement hummed along, but by 2014 the relationship had soured. Polestar filed an eviction suit against the Society’s members in the Small Causes Court. That litigation, however, never reached a verdict.

On 22 December 2016, Polestar made an offer to redevelop. The Society bit. A **Special General Body Meeting on 8 January 2017** accepted the proposal, consent terms were drawn up, and by 7 March 2017 the suit died a quiet death through a consent decree. Everyone, it seemed, had decided that tearing down the old and building anew was better than tearing each other apart in court.

The 2023 Development Agreement and SRA Approvals

Fast forward to 26 December 2023. The Society and Polestar signed a fresh **Development Agreement**. This was not a modest document. It cast Polestar as both Owner and Developer, gave it sweeping rights to exploit every available square foot of development potential, and explicitly allowed it to tap into government schemes, amalgamate neighbouring plots, and rejig layouts so long as the members’ carpet area remained untouched.

Polestar also tied up the adjoining Meena Society land, and together the two plots were pushed through the **Slum Rehabilitation Authority** under Regulations 33(10) and 33(11) of the Development Control and Promotion Regulations, 2034.

By early February 2026, Polestar had secured Intimations of Approval from the SRA dated 4 February and 16 February. On 20 February, it fired off a notice giving members forty-five days to vacate. Forty-two members eventually fell in line and signed consent declarations. **Twenty-six did not.** That refusal is what brought the matter to Justice Borkar's desk.

Reliefs Sought by Polestar

The reliefs Polestar sought were aggressive:

- Direct the twenty-six respondents to **vacate specific flats immediately**.
- Appoint a Receiver who could march in with police help, break locks if necessary, and hand possession to Polestar for demolition.
- Empower the Receiver to execute and register **Permanent Alternate Accommodation Agreements** on behalf of stubborn members.
- Permit Polestar to deposit transit rent and hardship compensation with the Receiver for anyone who refused to take the money.
- Obtain an **injunction against third-party transfers** of existing or future flats.

Defences Raised by the Respondents

The respondents, understandably, dug in. Their defences crisscrossed almost every conceivable angle of **cooperative and contract law**.

Alleged Bait-and-Switch on the SRA Route

A clutch of them, Respondent Nos. 19 through 26, insisted that Polestar had pulled a **bait-and-switch**. The Development Agreement, they argued, was built around the Municipal Corporation of Greater Mumbai as the planning authority and envisaged an Intimation of Disapproval, not an Intimation of Approval from the SRA.

Amalgamating the Meena Plots, erecting Project Affected Tenement buildings, and then proposing to shift those tenements elsewhere under a clubbing scheme was, in their telling, a wholesale rewrite of the contract. A rewrite that needed a fresh Society resolution and a registered addendum, neither of which existed.

Expired Managing Committee

Others attacked the very foundation of the Society's authority. The **Managing Committee had been elected on 10 April 2016**, they pointed out, and its five-year term expired on 9 April 2021. Everything after that (negotiations, the 2023 Agreement, the approvals) was therefore void because an expired Committee cannot bind a society.

PAAA Precondition Under Clause 19.1

Respondent No. 13 took a more contractual tack. **Clause 19.1** of the Development Agreement, he argued, made execution of Permanent Alternate Accommodation Agreements a precondition to any vacation notice. Since no PAAA had been signed, sealed, or registered when Polestar fired off its February and April notices, the entire exercise was premature.

Respondent Nos. 8, 10, 11, 12, and 17 added that the minutes of the Special General Body Meeting of 26 February 2026 had never been properly circulated or ratified, so they could not count as Society approval for the SRA route.

Ownership and Membership Skirmishes

Respondent Nos. 19 and 21 claimed **eight additional waitlisted flats** that the Development Agreement ignored. The intervenor, M/s. Saboo and Varun, protested that it owned Flats A/804 and A/904 in Building A, unsold stock from the original construction, and that demolishing the building without even impleading them was a gross non-joinder.

Respondent Nos. 14 and 15 pointed to **shareholder disputes over Polestar itself**, suggesting the company lacked the corporate stability to see the project through. And Respondent No. 24, the erstwhile developer who had his own Commercial Suit pending since 2017, argued that the Court should stay its hand because his earlier tripartite agreement and sanctioned plans still cast a long shadow over the property.

The Court's Analysis: Section 9 Is Not a Trial

Justice Borkar began by drawing a bright line. Citing the Division Bench in *Pranav Constructions Limited v. Priyadarshini Cooperative Housing Society Limited* (2025), he reminded everyone that a **Section 9 petition is not a trial by another name**.

Courts acting under this provision are not meant to untangle every factual knot or deliver definitive findings on title, membership, or the validity of Society resolutions. Those battles belong to the Cooperative Court, the Deputy Registrar, the civil courts, and eventually the Arbitral Tribunal.

The only question before him was whether Polestar needed **interim protection** to prevent the arbitration itself from becoming an empty ritual, and whether such protection could be granted without prejudicing the respondents' underlying rights.

Was the SRA Route a Departure from the Contract?

On the charge that Polestar had fundamentally altered the project, the Court rolled up its sleeves and read the **Development Agreement clause by clause**. The definition of "Development Potential" was deliberately elastic. It swallowed up every species of FSI, TDR, government FSI, and advantages flowing from the amalgamation of neighbouring plots.

- **Clause 3.4** authorised the developer to exploit maximum permissible FSI under the DCPR or any other law.
- **Clause 3.5** gave Polestar the freedom to complete the project "in such manner as they may deem fit."
- **Clause 15.9**, far from chaining Polestar to the Municipal Corporation, expressly permitted it to opt for "such Government schemes as they deem beneficial" and referred to "other appropriate authorities."
- **Clauses 18.1 and 18.2** reinforced the same latitude: prepare, amend, revise, and obtain sanctions from competent authorities as the law allowed.

Justice Borkar found it impossible to read these clauses as a straitjacket mandating Municipal Corporation approval alone. The parties had clearly anticipated that the regulatory framework might shift, and they had given Polestar the running room to adapt. More importantly, the respondents could not point to a *single clause* that prohibited the SRA route.

The Court also found the respondents' conduct telling. After Polestar circulated the SRA approvals on 20 February 2026, the Society convened a Special General Body Meeting on 26 February. Members raised queries. Transit rent was bumped from Rs. 125 to Rs. 162 per square foot. Doubts were answered. And then **forty-two members signed on the dotted line**. Not one dissenting voice had objected at the circulation stage that the SRA route was contractually barred. That silence mattered.

The PAAA Objection

The objection about the PAAA was trickier, but only superficially so. Clause 19.1 did contemplate these agreements, and their purpose was plain: no member should surrender his home without a guaranteed new one.

Yet Justice Borkar refused to read the clause as a **deadlock mechanism**. The petitioner had repeatedly stated its readiness to execute PAAAs before any member actually vacated. The Society, for its part, had called a meeting on 12 July 2026 to finalise flat allotments and circulate draft agreements.

The bottleneck, the Court noted, was partly the respondents' own refusal to cooperate in the allotment process. *A party cannot stonewall a prerequisite and then crow that the prerequisite has not been met.*

Still, the Court was not about to leave members exposed. It made possession conditional: Polestar must execute and register the PAAA for each member, and must pay or secure all transit rent, hardship compensation, and other monetary benefits, **before a single suitcase is packed**. That turned a potential deal-breaker into a safeguard.

Managing Committee Validity

The Managing Committee controversy received short shrift, but for legally sound reasons. Whether an expired Committee can continue, whether elections should have been held, and what consequences flow from administrative inertia are questions squarely under the **Maharashtra Co-operative Societies Act**.

They were already pending before the Deputy Registrar and the Cooperative Court. Justice Borkar saw no reason to pre-empt those forums in a Section 9 petition, especially when the *General Body*—and not just a rogue Committee, had repeatedly approved the redevelopment.

Waitlisted Flats and Non-Joinder

As for the waitlisted flats, the Court drew a sharp distinction between disputes that travel with the Development Agreement and disputes that run parallel to it. Respondent Nos. 19 and 21 were already recognised members for the flats covered by the petition.

Their claim to eight additional units (small, vacant, doorless, windowless spaces of roughly 100 square feet each) was a **membership quarrel with the Society**. The Development Agreement itself had parked such claims to one side, expressly stating they would be dealt with by the Society at its own cost. Justice Borkar made it clear: these gentlemen were free to fight their membership battle elsewhere, but they could not use it as a chokehold on the entire project.

The intervenor's plea of non-joinder met a similar fate. M/s. Saboo and Varun asserted independent ownership over two unsold flats based on their status as the original developer. That claim, the Court held, was **rooted in title, not in the Development Agreement**. They were strangers to the arbitration clause.

A Section 9 court cannot, and should not, adjudicate the rights of every person who might be incidentally affected by demolition. If Saboo and Varun had a valid claim, they could pursue it before the proper forum; the Court's interim order would not extinguish it.

Parallel Litigation

Finally, the pendency of Respondent No. 24's Commercial Suit and the Cooperative Court proceedings did not create an automatic bar. Without a **prohibitory order** from any of those forums, the mere existence of parallel litigation could not freeze a redevelopment that the majority of members wanted.

Operative Order: Calibrated Force with Safeguards

The operative portion of the judgment was a study in **calibrated force**. The Court partly allowed the petition. The key directions were as follows:

1. Respondent Nos. 2 to 26 were directed to hand over **vacant possession** of twenty-one identified flats within four weeks, but only after Polestar had executed and registered their individual PAAAs and paid or secured every rupee of transit rent and hardship compensation due up to the handover date.
2. If anyone refused to vacate, the **Court Receiver, High Court, Bombay**, would step in with full Order XL CPC powers, issue a seven-day notice, and if necessary take possession with police help, breaking locks if required.
3. The Receiver could execute and register PAAAs on behalf of defaulting members.
4. Polestar was permitted to **deposit monetary benefits** with the Receiver for members who spurned direct payment.
5. Once the new building rose, Polestar would deliver the alternate flats to the Receiver, who would then pass them to the entitled occupants.
6. An **injunction** restrained the respondents from transferring, encumbering, or creating third-party rights in their existing or future flats.

Crucially, Justice Borkar added two **protective caveats**: every other dispute (membership, resolution validity, Managing Committee legality, pending suits) was expressly kept open, and all findings in the judgment were *prima facie* only, binding on nobody at the final arbitration hearing. Polestar was given ninety days to invoke arbitration. There was no order on costs.

Key Takeaway: Balancing Majority Rule and Minority Protection

What emerges from this judgment is a pragmatic judicial philosophy that recognises the **unique sociology of Mumbai's housing stock**. Old buildings decay. Societies vote to rebuild. A minority resists.

If courts treat every objection as a reason to halt work, redevelopment dies by a thousand cuts. Yet if courts ram through possession without safeguards, they risk turning families out of homes they have occupied for generations on the strength of nothing more than a developer's promise.

Justice Borkar threaded that needle by giving Polestar the possession it needed, but only after it had delivered in advance the very security the members feared losing. In doing so, the Court honoured both the **arithmetic of majority rule** and the **humanity of minority protection**.

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