

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2487 OF 2015**

M/s Laxminarayan Developers & Ors

..Petitioners

Vs.

**The Competent Authority District Deputy Registrar, Co-operative Societies
Nashik**

..Respondent

Mr. Rameshwar Gite for the Petitioners

Mr. S.D.Rayrikar AGP for the Respondent Nos.1 to 3

CORAM : R. M. SAVANT, J.

DATE : 23rd MARCH, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 30-1-2015 passed by the Competent Authority and District Deputy Registrar, Co-operative Societies, by which order, the application filed by the Respondent No.1 under Section 11 of the Maharashtra Ownership of Flats Act 1963 (for short MOFA), came to be allowed and resultantly the Respondent No.2 was held entitled to unilateral deemed conveyance. As a consequence a certificate came to be issued by the Competent Authority in respect of the said deemed conveyance. The Respondent No.1 is a society of the flat purchasers in the building constructed by the Respondent No.2 herein who is the developer/promoter in terms of the provisions of the MOFA. It appears that the members of the Respondent No.2 society have purchased flats sometime in the year 2006 and have constituted themselves in the Respondent No.2 Co-operative Housing Society, the building of the society is situated on a plot of

land admeasuring about 528 sq.mt. in respect of which deemed conveyance is sought. It appears that the Respondent No.1 has 11 members who are the flat purchasers. In spite of the mandate of Section 10 of the MOFA, the Respondent No.1 did not take any steps to register the society of the flat purchasers and after the society was registered on 23-9-2014 that the Petitioner took exception to it and has challenged the said registration of the Respondent No.2, by filing an Appeal before the Divisional Joint Registrar. At least this is what is propounded by the Learned Counsel appearing for the Petitioner.

2 The objection to the grant of deemed conveyance in favour of the Respondent No.2 society is inter alia on the ground that the society was registered on 23-9-2014 and on the same day an application was filed for deemed conveyance by the society and therefore the period of 4 months which is contemplated in Section 11 read with Rule 9 of MOFA Rules was not followed. It is not possible to accept the said contention urged by the Learned Counsel for the Petitioner. As indicated above the application for registration of the society was required to be filed as the Petitioner herein had not fulfilled his obligation under MOFA, the flat purchasers therefore had themselves to take steps to get the society registered and have accordingly got the same registered on 23-9-2014. It is immediately on the same day that an application for deemed conveyance came to be filed. In terms of Section 11, it is the obligation of developer/promoter to execute a conveyance in favour of the

society after it comes into being. In the instant case, the Petitioner who is the developer/promoter himself having not taken any steps to register the society, it was not possible to expect the flat purchasers to wait till the Petitioner took steps to convey the land in question. The Respondent No.2 had therefore to file an application for deemed conveyance which it accordingly did and which has been allowed by the Competent Authority and District Deputy Registrar, Co-operative Societies by the impugned order.

3 In my view, accepting the contentions urged on behalf of the Petitioner would amount to negating the object behind introducing Section 11 of the MOFA. It is precisely in cases where the promoters/developers shows a reluctance to register the society of the flat purchasers or convey the property in question that the provisions of the MOFA were required to be amended. In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]