

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4054 OF 2014

M/s Sadguru Builders

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. S. S. Panchpor, for the Petitioner.

Mr. V. B. Tapkir, for the Respondent No.2.

Mr. S. D. Rayrikar, AGP for the Respondent No.1.

CORAM : R.M. SAVANT, J.

DATE : 16th JULY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 23.01.2014 passed by the Competent Authority and District Deputy Registrar, Co-operative Societies, Pune, by which order the application for deemed conveyance filed by the Respondent No.2 society came to be allowed and deemed conveyance of an area of 2884.00 sq.mtrs. came to be granted which is comprising in Survey No.18, Hissa No.9, NIBM Road, Kondhwa (Khurd), Pune-48. The impugned order is challenged on the ground that the developer had entered into an agreement with the Respondent No.2 in respect of utilization of area of 2000 sq.ft. in the said property pursuant to which the Petitioner has

constructed a building which is situated in between the row houses of the Respondent No.2 society. The above Petition was heard from time to time. On behalf of the Respondent No.2 society an affidavit is filed by one Mohan Kumar Naidu, Secretary of the Respondent No.2 society. In paragraph 2 of the said affidavit, it is stated that the application for deemed conveyance has been filed by the Respondent No.2 only to the extent of 1549.56 sq.mtrs. out of total area of the plot bearing 2884 sq.mtrs. It is further stated in paragraph 2 that the said area is the area of the Row Houses cumulatively. In paragraph 3 a reference is made that a Emergency General Meeting of the society was held on 28.06.2015, wherein it was decided that the Respondent No.2 society would ask for deemed conveyance restricted to the area of 1549.56 sq.mtrs. In paragraph 4, it has been reiterated that the society has applied for deemed conveyance only to the extent of 1549.56 sq.ft. area by reserving its right in the common facilities in future. Hence, what flows from the affidavit is that the society is not claiming any right in respect of the area on which the building in question is constructed by the Petitioner. As indicated above, the principal grievance of the Petitioner was that the area upon which the building is constructed is also covered by the area in respect of which deemed conveyance has been granted in favour of the Respondent No.2. In view of the said affidavit and the statement made therein, the

grievance of the Petitioner does not survive. However, it is the case of the Petitioner that it has entered into an agreement with the original owners in respect of 4.25 Ares which is situated on the west side of the plan submitted by the Learned Counsel for the Petitioner which area is marked in Red. This plan is taken on record and marked as 'X' for identification. It is for the Petitioner to assert his right by filing appropriate Civil Proceedings. Needless to state that if any such proceedings are filed the same would be decided on their own merits and in accordance with law uninfluenced by the fact that the deemed conveyance has been granted to the Respondent No.2 herein. Hence, by confirming the order passed by the Competent Authority to the extent of 1549.56 sq.mtrs., the order of deemed conveyance as well as the certificate would stand modified accordingly. The above Petition would also accordingly stand disposed of. The Secretary of the Respondent No.2 society is personally present in Court.

[R.M. SAVANT, J]