

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

WRIT PETITION NO.812 OF 2015

Rev. Father Joseph Praxedes Pereira

.. Petitioner

Versus

**J-24 Mahavir Nagar Co-operative Housing
Society Limited and another**

.. Respondents

WITH

CIVIL APPLICATION NO.1070 OF 2015

**J-24 Mahavir Nagar Co-operative Housing
Society Limited and another**

.. Applicant

IN THE MATTER BETWEEN

Rev. Father Joseph Praxedes Pereira

.. Petitioner

Versus

**J-24 Mahavir Nagar Co-operative Housing
Society Limited and another**

.. Respondents

**Ms. Jinal Gogri i/by M/s. Negandhi Shah & Himayatullah, for the
Petitioner.**

**Shri. M. M. Vashi, Senior Advocate i/by Pramod Kumar Vachheta, for
the Respondent No.1.**

Shri. A. D. Kango, AGP for the Respondent No.2.

CORAM : R.M. SAVANT, J.

DATE : 23rd APRIL, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the

order dated 09.10.2014 passed by the Competent Authority i.e. District Deputy Registrar, Co-operative Societies, Mumbai City (4). By the said order the objection raised by the Petitioner as and by way of a preliminary issue was rejected. The principal ground on which the order has been challenged is that the impugned order is sans any reasons. The Learned Senior Counsel appearing on behalf of the Respondent No.1 society which is Applicant before the Competent Authority does not dispute the position and fairly concedes that reasons ought to have been given by the Competent Authority, if he was to reject the objection raised as and by way of a preliminary issue. In my view, the impugned order dated 09.10.2014 is required to be quashed and set aside on the said ground and is accordingly quashed and set aside. Since an application is made by the Respondent No.1 society for grant of Deemed Conveyance by invoking Section 11 of the Maharashtra Ownership of Flats Act, 1963. In my view, it would be appropriate for the Authority to consider the application itself rather than the preliminary issue. The preliminary issue can be tried along with the other issues which arise in the application. Since the impugned order has been passed on 09.10.2014 and since the application is pending prior thereto, in my view it would be appropriate to fix a time frame to dispose of the proceedings by the Competent Authority. The Competent Authority therefore to hear and decide the said application for Deemed

Conveyance latest by 31.08.2015. Needless to state that the contentions of the parties on all issues including the preliminary issue are kept open for being urged before the Competent Authority. The Competent Authority to decide the application by giving proper opportunities to the parties and on its own merits and in accordance with law. With the aforesaid directions, the Writ Petition is disposed of. In view of the disposal of the Petition, the Civil Application does not survive and to accordingly disposed of as such.

[R.M. SAVANT, J]