

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6402 OF 2014**

M/s. Classic Homes & Ors.

..Petitioners

Vs.

Dist. Deputy Registrar Co-op Soc. & Ors.

..Respondents

Ms Asha Bhuta a/w Mr. N. P. Singh for the Petitioners

Ms Gauri Rao AGP for the Respondent Nos.1 to 3

CORAM : R. M. SAVANT, J.

DATE : 15th July, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 27-9-2013 passed by the Competent Authority exercising powers under the Maharashtra Ownership of Flats Act, 1963, (for short the said Act) by which order, the application filed by the Respondent No.2 society under Section 11(1) of the said Act, for the grant of unilateral deemed conveyance, came to be allowed and the unilateral deemed conveyance in respect of the property mentioned in the operative part of the order came to be granted.

2 The Petitioners also challenge the certificate bearing the same date which is a sequitur to the order of deemed conveyance wherein it is mentioned that the deemed conveyance of the plot admeasuring 6400 sq.mts. is granted. The Applicant is the Respondent No.2 herein which is a society comprised of the flat purchasers in the buildings constructed by the Petitioners. The society

came to be registered on 22-7-2009 under the provisions of Maharashtra Co-operative Societies Act, 1960. The Respondent No.2 society by its letter dated 11-3-2013, called upon the Petitioners to convey the property to it. However, receiving no response to the said letter dated 11-3-2013, the Respondent No.2 society was construed to file the instant application for unilateral deemed conveyance under Section 11(1) of the said Act. To the said application were annexed 10 documents which are reflected in paragraph (2) of the impugned order. The documents were interalia, the certificate of registration, 7/12 extract of the land, evidence of stamp duty being paid, list of the members of the society, notice issued to the developer, the agreement entered into between the developer and the flat purchasers, title certificate issued by the Advocate and the address of the developer and the site map of the property in question.

3 It is required to be noted that the said application initially had come up for hearing before the competent Authority on 23-7-2013 when Advocate Ms Aparna Sawant had appeared on behalf of the Petitioners. The said Advocate thereafter appeared on a couple of other dates and on one such date had filed an application for time being granted to file a reply to the said application. However, inspite of the time being granted and even extended by the Competent Authority, no reply came to be filed on behalf of the Petitioners before the Competent Authority. In fact on 27-9-2013, no appearance was put up on behalf of the Petitioners though on the earlier date i.e. on 25-9-2013, the

Petitioners were represented by the said Advocate Ms Aparna Sawant. The Competent Authority considering the said application and having regard to the fact that though it is the obligation of the Petitioners developers to convey the property to the society and though called upon to do so by the Respondent No.2 society had failed to do so, deemed it appropriate to grant deemed conveyance in respect of the property which has been referred to in the earlier part of this order.

3 The Learned Counsel for the Petitioner would contend that full FSI of the plot in question has not been utilised and that the Petitioners are entitled to use the same. However a reading of the agreement with the flat purchasers does not disclose any such right vested in favour of the Petitioners. In my view therefore, the order passed by the Competent Authority granting unilateral deemed conveyance, cannot be taken exception to. No case for interference in the Writ Jurisdiction of this Court is therefore made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]