

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St.NO.15100 OF 2015**

Tagore Kunj Co-operative Housing Society Ltd.

..Petitioner

Vs.

State of Maharashtra & Ors.

..Respondents

Mr. C. P. Deogirikar for the Petitioner

Ms M. S. Bane “B” Panel Counsel for the Respondent Nos.1 and 2

Mr. Karl Tamboli a/w Mr. Mahesh Mishra and Ms Adity Phatak i/b Mr. Ravi Thankaian for the Respondent No.3

CORAM : R. M. SAVANT, J.

DATE : 10th AUGUST, 2015

P.C.

1 The order recorded in the roznama dated 16-4-2015 is taken exception to by way of the above Petition. By the said order, the Competent Authority and Deputy Registrar, Co-operative Societies, has held that unless the consent decree passed by this Court which was passed in favour of Halim Mansion CHS Ltd. is modified or declared as invalid, the hearing on the application for deemed conveyance filed by the Petitioner society, cannot be proceeded with.

2 It is the contention of the Learned Counsel for the Petitioner Mr. Deogirikar that the said condition imposed by the Competent Authority and Deputy Registrar Co-operative Societies, was not warranted. It is the contention of the Learned Counsel that there is no society in existence by the

name of Halim Mansion CHS Ltd., nor the said decree which was passed on 12-4-1991 has been executed and since the period of limitation prescribed by Article 136 of the Limitation Act is already over, the said decree cannot be executed at this length of time. However, it is an undisputed position that the application filed by the Petitioner for deemed conveyance is bereft of any such particulars. It appears that the Advocate for the Petitioner whose name appears in the roznama had drawn the attention of the Competent Authority, to the said consent decree and it is thereupon that the directions as contained in the impugned order came to be issued.

3 In my view, it would be appropriate to set aside the impugned order dated 16-4-2015 with liberty to the Petitioner to make the necessary amendments in the application for deemed conveyance that has been filed and also by joining the said Halim Mansion CHS Ltd whose particulars may be available with the registering authority under the Maharashtra Co-operative Societies Act. It is after the application for deemed conveyance is amended by joining the said Halim Mansion CHS Ltd. and by issuing notice to it that the Competent Authority may consider whether to proceed with the application for deemed conveyance. This court does not express any opinion in that regard. The Learned Counsel for the Respondent No.3 Mr. Tamboli has no objection to the application being amended. The application for amendment covering the aforesaid aspects to be carried out within two weeks from date. The

Respondent No.3 would file its reply to the said amended application within two weeks thereafter. The Competent Authority may thereafter consider whether to proceed with the application for deemed conveyance if there is no impediment for the same. The contentions of the parties are kept open for being urged before the Competent Authority.

4 With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]