

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

WRIT PETITION (STAMP) NO.15528 OF 2015

Z. A. Towers Co-operative Housing Society Ltd. .. Petitioner

Versus

District Deputy Registrar of Co-operative

Societies Mumbai City (3) and others

.. Respondents

**Mr. V. D. Patil a/w Mr. S. R. Nargolkar i/by Mrs. Veena V. Sawkar, for
the Petitioner.**

**Ms. Aparna Deokar a/w Ms. Meenakshi V. Adate, for the Respondent
No.4.**

**Mr. Vishal Kanade, Mr. Rajesh Talekar, Mr. Pratik Jani i/by Prime
Legem, for the Respondent No.2.**

CORAM : R.M. SAVANT, J.

DATE : 14th AUGUST, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 11.05.2015 passed by the District Deputy Registrar, Co-operative Societies, Mumbai City (3), by which order the application for intervention filed by the Petitioner came to be rejected. The said application for intervention was filed by the Petitioner in the application made by the Respondent No.2 society for grant of unilateral deemed conveyance under Section 11 of the Maharashtra Ownership of Flats Act, 1963. The application has been rejected on the ground that the Petitioner society i.e. the Applicant was not part of the layout comprising of Plot

No.6A which was approved in the year 1983 and that the building of the Petitioner society has been constructed after the said layout was amended in the year 2000 and in respect of which there is a suit filed by the Respondent No.4 against the developers who have put up the building of the society. The application for intervention filed by the Petitioner society was founded on the fact that that was a common layout in respect of CTS No.1231/1 and that since the Applicant is part of the said common layout, the Applicant was necessary to be impleaded in the application for deemed conveyance filed by the Respondent No.2 society.

2. In the instant Petition, an affidavit in reply has been filed by the Respondent No.2 and it is disclosed in the said affidavit in reply as to how the land of Plot No.6A was developed and the 11 buildings of the five societies who are parties before the Competent Authority and the plots on which said 11 buildings within the said plot No.6A are situated. It is stated in the said affidavit that the Petitioner's building is forming part of layout plot 6A garden and layout plot 6B on CTS No.1231/1 which is a different sanctioned layout than the layout of the 11 buildings. Prima-facie, the conclusion arrived at by the Competent Authority whilst rejecting the application for intervention is borne out by the material which has been annexed to the affidavit in reply as the said reply discloses that it is only after the said Plot 6A has been developed that the building of the

Petitioner society was put up by using the FSI and TDR which became available on account of the surrender of the plots for public amenities.

3. On behalf of the Petitioner reliance is sought to be placed on a reply filed to the amended application by the Respondent No.4 developers. By the amendment, the application was sought to be amended by the Respondent No.2 so as to lay a claim to the undivided common internal roads and common RG layout. The said claim was replied to on behalf of the Respondent No.4 by contending that there were other societies who also have a common interest in the said common internal layout and the common RG. In my view, the said reply does not further the case of the Petitioner to seek its intervention in the application for deemed conveyance filed by the Respondent No.2 society. As there can be no dispute about the fact that the Respondent No.2 society and the other societies who have been arrayed in the application for deemed conveyance are covered by the Plot No.6A in the layout which was sanctioned in the year 1983. However the Petitioner society is a part of the amended layout which was sanctioned in the year 2000. In my view therefore, the impugned order passed by the Competent Authority rejecting the application for intervention cannot be found fault with, no case for interference in the Writ Jurisdiction of this Court is therefore made out. The Writ Petition is accordingly dismissed.

4. The Learned Counsel for the Petitioner seeks stay of the instant order. In the facts and circumstances of the case, the said prayer is rejected. However, it would be open for the Petitioner to file appropriate civil proceedings for redressal of its grievance if so advised.

[R.M. SAVANT, J]