

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

**WRIT PETITION NO. 8421 OF 2015**

M/s. Chunilal Velji Patel &  
Company

Petitioner

Vs

Koteshwar Apartment CHS Ltd  
and Anr.

.. Respondents

Mr. Rajendra M. Haridas, Advocate for the petitioner.

CORAM : R.G.KETKAR,J.  
DATE : 28/08/2015

**PC:**

1. Heard Mr. Rajendra Haridas, learned counsel for the petitioner at length.
2. By this Petition under Article 227 of the Constitution of India, original opponent no.2 has challenged the Judgment and order dated 15.7.2015 passed by the Competent Authority and District Deputy Registrar, Co-operative Societies (3), Mumbai. By that order, the Competent Authority rejected the application made by opponent no.2 under section 10 of Civil Procedure Code, 1908 (for short, 'C.P.C') for staying the proceedings of deemed conveyance Application No.15 of 2015. till the final decision of Suit T.E.& R. Suit No. No.71/91 of 2011 filed by opponent no.2 before the Small Causes Court, at Bombay.
3. Mr. Haridas submitted that as the suit is instituted by opponent no.2 in the Small Causes Court, the proceedings of the deemed conveyance are liable to be stayed. I do not find any

merit in this submission as the application filed by opponent no.2 under 10 of C.P.C. itself is misconceived and is not maintainable. The Apex Court in the case of National Institute of Mental Health and Neuro Sciences Vs. C. Permeshwara, 2005 (2) Mh. L. J. (SC) 1 has held that Section 10 is applicable to only suit instituted in civil court and is not applicable to proceedings of other nature instituted under any other statute. Since the Competent Authority is not a civil court, in my opinion, the application is rightly rejected by the Competent Authority. In view thereof, Petition fails and the same is dismissed.

(R.G.KETKAR, J.)