

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1954 OF 2015

Shrenik Tower Co-op. Housing Society Petitioners
Ltd.

Vs.

State of Maharashtra & Ors. Respondents

Mr J.S. Kini i/by Mr. Suresh Dubey, Advocate for the Petitioners.

Mr. Milind More, AGP for Respondents no.1 and 2.

Mr. V. Mannadiar i/by Mannadiar & Co., for Respondent no.3.

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 28th September, 2015

P.C. :

1 The Petitioner-Society herein has invoked the extraordinary jurisdiction of this court to challenge the order dtd.29th December, 2014 passed by the District Deputy Registrar, Co-operative Societies, Mumbai City (3) under Section 11(3) of the Maharashtra Ownership Flats (Regulation of Promotion of the Construction, Sale Management and Transfer) Act, 1963, granting deemed conveyance to respondent no.3 in respect of land admeasuring 4897.84 sq. mtrs., CTS No.160B, Village Ghatkopar, Taluka Kurla, District Mumbai. The Petitioner-Society claims that respondent no.4- builder had constructed the buildings of both the societies i.e. the petitioner-society and

respondent no.3-society. There were disputes between the parties pending in Consumer Forum, in which settlement was arrived at and the dispute was disposed off in terms of the consent terms. The consent terms provided that respondent no.4 shall execute joint conveyance in favour of both the societies within eight weeks from the date of the consent terms. Thereafter the advocate for the petitioner in this petition sent letter dtd. 17th August, 2011 on behalf of respondent no.4 stating that the document of conveyance, in accordance with the consent terms had been prepared and the same should be engrossed on paper to enable both the societies to get the same adequately stamped for registration. Based on this letter, the petitioner today seeks to claim that execution of conveyance has already taken place and therefore the Deputy Registrar could not have granted deemed conveyance to respondent no.3.

2 Mr. Mannadiar, the leaned advocate for respondent no.3 opposes the admission of the petitioner alleging that the petition has been filed with mischievous intentions and points out that it is highly inappropriate on the part of Mr. Dubey to represent the petitioner against respondent no.4 for whom he had acted earlier.

3 The document of conveyance relied upon by the petitioner on Exhibit "C" to the petition has been signed by one Lalit T. Shah on behalf of the owner i.e. Manhar Mills Pvt.

Limited and by one A.S. Sanghavi on behalf of respondent no.4. Though the names of both the societies are typed and the provision made for signatures on their behalf, neither society has signed the same. The document is neither stamped nor registered. Despite the fact, Mr. Kini seeks to argue that the document of conveyance being a one side document to be executed by the vendor, absence of signature thereon by the purchaser would be immaterial. As regards the defect of non-payment of stamp duty, Mr. Kini submits that it is only an irregularity, which can be subsequently cured.

4 Perusal of the letter dtd. 17th August, 2011 and the document of conveyance dtd.19th September, 2011 clearly shows that no conveyance had been executed in favour of the societies as per the consent terms. In that circumstance, respondent no.4 had been made an application being Application No. 344 of 2013 to the Deputy District Registrar Co-operative Societies for grant of deemed conveyance under Section 11 of the MOFA Act. After consideration of the dispute, the consent terms and the order, the Deputy District Registrar passed the impugned order. In the circumstances, there can be no infirmity with the impugned order whatsoever.

5 Admittedly, the petitioner has already filed a civil suit against respondent no.3 and others for establishing the right claimed by it in respect of the land at CTS No. 160B, which

is pending for adjudication. In the circumstance, there is no substance in the petition filed. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J.)

CERTIFICATE

Certified to be true and correct copy of the original
signed Order.