

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

WRIT PETITION NO.2052 OF 2016

Chetna Apartment CHS Ltd.

..Petitioner

Versus

Mr. Uttam D. Sonawane and others

..Respondents

Mr. Rahul Singh i/by Legal Catalyst for the Petitioner.

Mr. S. D. Rayrikar, AGP for the Respondent-State.

Mr. Nilesh Tribhuvan for the Respondent No.2.

CORAM : R. M. SAVANT, J.

DATE : 22nd DECEMBER, 2016

PC.

1 The writ jurisdiction of this Court is invoked against the communicated dated 30.07.2015 issued by the Competent Authority and District Deputy Registrar of Co-operative Societies, Thane. By the said communication, the Petitioner society has been informed that it's application for grant of deemed conveyance under Section 11 of the Maharashtra Ownership of Flats Act, 1963 (For short "the MOFA") cannot be considered in view of the suit pending in the Court of the Civil Judge Senior Division, Thane being RCS No.919 of 2008.

2 The Learned Counsel appearing on behalf of the Respondent No.2 Mr. Nilesh Tribhuvan states that the said suit is between the Respondent Nos.2(a) to 2(d) and the Respondent No.1 for declaration and injunction. The Respondent No.1 is the developer who has put up

construction on the plot of land in question, wherein 11 members of the Petitioner society are residing. The suit pending between the Respondent Nos.2(a) to 2(d) and Respondent No.1 therefore cannot have bearing on the entitlement of the Petitioner to file an application for deemed conveyance.

3 In my view, therefore, the reason mentioned in the impugned communication cannot come in the way of the Petitioner from prosecuting such an application. The impugned communication is therefore set aside. The Competent Authority and District Deputy Registrar, Co-operative Societies, Thane is directed to hear and decide the said application for deemed conveyance on its own merits and in accordance with law. The same to be done expeditiously. With the aforesaid directions, the Writ Petition is disposed of.

4 The Show-Cause Notice for Contempt issued to the Senior Inspector of Police Navpada Police Station, Thane in the light of the affidavit filed by him is discharged.

5 Parties to act on a copy of this order duly authenticated by the Court Shirestedar.

[R.M.SAVANT, J]