

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1831/2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Swapnil Bangur i/b. Jay Kishore Bhatia for the petitioner

Mr. Pravin Samdani, Senior Advocate with Rupesh Geete & Vikramjit i/b. I.C. Legal for the respondent No.1.

Mr. Sukanta Karmakar, AGP for respondent No.2
State

CORAM : K. K. TATED, J.

DATE : NOVEMBER 24, 2016

P.C.:

1. Heard. By this petition under Article 226 of the Constitution of India the Petitioner society challenges the order dated 26.05.2015 passed by the District Dy. Registrar, Cooperative Societies, Mumbai City (4), the competent authority under the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (said Act) rejecting the petitioner's application for deemed conveyance.

2. It is to be noted that the Authority has dismissed the petitioner's application for deemed conveyance on following three grounds:

(i) The petitioner has not made the owner of the property as party to the owner of the property.

(ii) Earlier the petitioner made an application for conveyance of entire plot of land i.e. 2434.72 sq.mtr.

(iii) Thereafter they made an application for amendment and claimed the area admeasuring 989.22 sq.mtr. i.e. after deducting the area admeasuring 866.42 and the area occupied by Viyog Sadan admeasuring 579.08 sq.mtr.

3. The authority held that the developer and the owner made declaration dated 18.12.2004 which is a registered document in respect of the petitioner's building for formation of condominium and execution of deed of condominium in favour of each flat owner.

4. During the course of argument, counsel for the petitioner was unable to show on what basis they claimed earlier plot having area of 2434.72 sq.mtr and thereafter they restricted the area to 989.22 sq.mtr. Apart from that, it is necessary to make the owner of the property as party to the said proceedings and that was not done by the petitioner.

5. Considering the reasons given by the authority, particularly, in paragraph xviii (page 54), paragraph xxiv and xxv (page 55) and paragraph xxxii on page 56, I do not find any reason to entertain the Writ Petition. Hence, same stands rejected.

JUDGE