

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

WRIT PETITION NO. 1223 OF 2017

New Ajay Apartment Co-operative
Housing Society Ltd.

...Petitioner

Versus

The State Of Maharashtra And Ors.

...Respondents

Mr.Amit Atul Tungare for the Petitioner.

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

CORAM : M. S. SONAK, J.

DATE : 14th SEPTEMBER 2017

P.C.

1. Heard learned counsel for the parties.

2. The learned counsel for the petitioner states that by the impugned order deemed conveyance which has been directed includes certain portion of the petitioner's property. The learned counsel for the petitioner points out that the petitioner society has put up buildings in the adjacent property. He in fact points out that this is a common layout and therefore, no order for deemed conveyance ought to have been made unless the petitioner society was impleaded as a party in the proceedings. On this ground, he

submits that the impugned order directing deemed conveyance is required to be set aside.

3. Mr.Rayrikar, the learned AGP points out that the impugned order is made in the year 2013 and the petition is instituted in the year 2016. This Court in the case of ***Mazda Construction Company and Others V/s. Sultanabad Darshan CHS Ltd. & Ors.***¹, has already held that the orders made by the Competent Authority under the Maharashtra Ownership Flats Act (MOFA) are not intended to displace the civil rights, if any, held by the parties. Besides, in this case, since the petitioner was not impleaded as a party to the proceedings, obviously, the impugned order, *per se*, may not bind the petitioner. If on the basis of the impugned order, any overt-action is contemplated by any of the parties, it is always open to the petitioner to take out appropriate proceedings before the Civil Court to establish or protect the petitioners any alleged civil rights or proprietary rights. In such a civil action, there is no question of the Civil Court, being influenced by the order impugned in this petition. However, at the behest of the petitioner, it is not necessary to entertain the present petition or set aside the impugned order.

1 2012 BCI 550

4. With clarification and liberty as aforesaid, this petition is dismissed. There shall be no order as to costs.

(M. S. SONAK, J.)