

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11215 OF 2014**

Raj Ratan Co-op Hsg Sty Ltd

..Petitioner

Vs.

The Government of Maharashtra & Ors

..Respondents

Mr. R. S. Apte Senior Advocate a/w Mr. D. H. Shukla for the Petitioner

Mr. S. D. Rayrikar AGP for the Respondent Nos.1 and 2

Ms Leena Patil i/b Bagkar & Co. for the Respondent No.3

Mr. Zubin Beharam Kamdin i/b Vimla & Co. for the Respondent No.6

CORAM : R. M. SAVANT, J.

DATE : 16th FEBRUARY, 2017

P.C.

1 The order dated 30-1-2014 passed by the Competent Authority and the District Deputy Registrar of Co-operative Societies (3) rejecting the application for deemed conveyance is taken exception to by way of the above Petition. The deemed conveyance sought was of the entire plot of the land on which three other societies are also situated.

2 It seems that out of the said three societies, two societies i.e. Raj Mahal Co-operative Housing Society Ltd., and Sai Arpan Co-operative Housing Society Ltd., have been granted deemed conveyance of the plot of land on which their buildings are situated and appurtenant land as per the development control rules. In so far as the third society i.e. Janam Apartment Co-operative Housing Society Ltd is concerned, it seems that the Respondent No.6 i.e. the original developers are developing the plot of land on which the

building of the said society is situated. The application for deemed conveyance filed by the Petitioner has been rejected by the Competent Authority on the ground that the Petitioner society is seeking conveyance of the entire plot of land and therefore the said claim of the Petitioner could not be acceded to in view of the fact that there are other societies situated on the said plot of land.

3 Having regard to the supervening event of the two societies being granted deemed conveyance after the impugned order was passed by the Competent Authority and District Deputy Registrar of Co-operative Societies, the Learned Senior Counsel for the Petitioner Mr. Apte after arguing for sometime on instructions of the Petitioner society which instructions have been given to him by the Chairman of the society pursuant to the resolution dated 12-2-2017, states that the Petitioner would file an application for amendment of the original application so as to restrict the claim of the Petitioner society to the plot of land on which the building of the Petitioner society is located, the building, as also the appurtenant land as per the development control rules. The Learned Senior Counsel therefore submits that the impugned order be set aside and the matter be relegated back to the Competent Authority as the adjudication resulting in passing of the impugned order was on the basis that the Petitioner is claiming deemed conveyance in respect of the entire plot of land.

3 The Learned Counsel appearing for the Respondent No.6 Mr. Kamdin opposes the application but states that if such an opportunity is to be granted to the Petitioner, then the rights and contentions of the Respondent No.6 be kept open in so far as the claim of the Petitioner society is concerned.

4 In my view, since the Petitioner society is pursuing remedies for conveyance of the property on which its building is situated as well as the building though the Petitioner society has been registered as long back as in the year 1985-1986, it would be just and proper to issue the following directions :

(i) The impugned order dated 30-1-2014 passed by the Competent Authority and District Deputy Registrar, Co-operative Societies, would stand quashed and set aside and the matter would stand remanded back to the Competent Authority and District Deputy Registrar, Co-operative Societies for a denovo consideration.

(ii) In terms of the statement made by the Learned Senior Counsel for the Petitioner, the Petitioner society would file an application for amendment of the application for deemed conveyance so as to restrict its claim to the plot of land on which the building of the Petitioner society is situated, the building of the society and the land appurtenant as per the development control rules. If

such an application is filed within three weeks from date, the Competent Authority would permit the amendment of the application as originally filed for deemed conveyance.

(iii) If the application for amendment is not filed within the period stipulated by the instant order, the right to file the application would then stand forfeited and in the said event the impugned order would stand revived and the application for deemed conveyance would accordingly stand rejected.

(iv) If the application for amendment is filed and the amendment is incorporated in the original application, the amended application would be tried on its own merits and in accordance with law by giving proper opportunity to the parties.

(v) It is clarified that the rights and contentions of the Respondent No.6 are kept open for being urged before the Competent Authority and District Deputy Registrar, Co-operative Societies. This would be in respect of the amended application of the Petition.

(vi) The parties to appear before the Competent Authority and District Deputy Registrar, Co-operative Societies on 9-3-2017, however three days prior thereto, the copies of the amendment sought in terms of clause (ii) above to

be served on the Respondent No.6 and the other societies.

(vii) The Learned Counsel assure this court that their respective clients would remain present before the Competent Authority and District Deputy Registrar, Co-operative Societies, so as to obviate the need to issue notice to the parties. The Competent Authority and District Deputy Registrar, Co-operative Societies would decide the application latest by 31-5-2017.

5 With the aforesaid directions, the above Petition is disposed of.

[R.M.SAVANT, J]