

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

WRIT PETITION NO.12696 OF 2016

**Mohan Nagar Co-operative Housing
Society Ltd.**

..Petitioner

Versus

Smt. Shalini Chhotalal Desai and others

..Respondents

Mr. D. S. Patil for the Petitioner.

**Mr. Vijay Thorat a/w Anukul Seth, Karan Vyas for the Respondent
Nos.1 to 6.**

Mr. Rajesh Kachare for the Respondent No.8.

Mr. Yogesh Naidu a/w Ms. Amrita Shenoy for the Respondent No.9.

Mrs. V. S. Nimbalkar, AGP for the Respondent No.10.

CORAM : R. M. SAVANT, J.

DATE : 6th FEBRUARY, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 06.06.2016 passed by the District Deputy Registrar, Co-operative Societies, Mumbai City-4 and Competent Authority. By which order, the Competent Authority has disposed of the proceedings by making the observations contained in the last paragraph i.e. below paragraph j. The same is reproduced hereinunder for the sake of ready reference :-

“For want of the above, I am unable to proceed with the Application on merits and exercise power u/s. 5-A of the MOFA, 1963. All contentions and arguments of all sides are kept open in the above matter.”

The cause for passing the said order is mentioned in the body of the order and especially under heading “Order and the Certificate”.

2 In terms of the said order, it is therefore open for the Petitioner to file an application de-novo after the compliances are made or in the event it is not possible to make the compliances of all the clauses of the said paragraph 1 under the heading “Order and the Certificate”, give justification for the same. Since certain observations have been made in the body of the order, the Learned Counsel for the Petitioner expressed an apprehension that the same may be held against the Petitioner in the de-novo proceedings if filed by the Petitioner. In the light of the observations made in the last paragraph, in my view, the apprehension expressed by the Learned Counsel for the Petitioner is mis-founded. However since the Petitioner is a Co-operative Housing Society, it is clarified that the contentions of the parties on merits are kept open and if any such application filed de-novo for deemed conveyance, the same would be considered on its own merits and in accordance with law uninfluenced by the observations made in the instant order. With the aforesaid observations, the Writ Petition is disposed of.

[R.M.SAVANT, J]