

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.2806 OF 2016

**M/s. Agarwal Infratech Limited
(formerly known as Mak Impex
Chemicals Private Limited)**

: Petitioner

versus

**Agarwal Infinity Heights Co-op.
Society Limited**

Through its Chairman/Secretary & ors.

: Respondents.

**Mr. Ankit Lohia a/w Mr. Naser Rizvi and Mr. Shabbir Jariwala i/by M/s.
Thakore Jariwala & Associates for the Petitioner.**

Mr. Hemant Haryan, AGP, for the Respondent Nos.2 and 3.

**CORAM : R. M. SAVANT &
SMT. SADHANA S JADHAV, JJ.**

DATE : 13th JULY 2017

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 26/07/2016 passed by the District Deputy Registrar of Co-operative Societies and Competent Authority by which order the application filed by the Petitioner herein questioning the maintainability of the application filed by the Respondent No.1 Society for unilateral deemed conveyance under Section 11 of the Maharashtra Ownership of Flats Act came to be rejected.

2 The maintainability of the application was challenged by the Petitioner inter-alia on the grounds mentioned in the said application amongst which was the ground that the application is not maintainable as the original owners of the plot of land in question were not joined as parties to the said

application. As indicated above the said application has been rejected by the impugned order dated 26/07/2016 which can be said to be a cryptic order. It is post the filing of the above Writ Petition that an application has been made by the Respondent No.1 Society to join the original owners as parties to the said application for deemed conveyance. However it appears that prior thereto on 10/10/2016 the main application was reserved for passing of final orders. However, there is no dispute about the fact that no final orders have yet been passed by the Competent Authority on the main application probably in view of the fact that the application for impleadment of the original owners is pending.

3 In view of the supervening event of the Respondent No.1 filing an application to implead the original owners, the learned counsel appearing on behalf of the Petitioner Shri Ankit Lohia states that the fact situation has undergone a change and has thereby virtually turned the above Petition infructuous. The learned counsel for the Petitioner therefore seeks withdrawal of the above Petition so that the application for impleadment filed by the Respondent No.1 can be heard and disposed of as also the main application can be heard and disposed of by giving opportunity to all parties including the original owners. Hence the following directions :-

A] The Petitioner is allowed to withdraw the above Writ Petition in view of the supervening event which has been referred to in the

body of this order.

B] The District Deputy Registrar of Co-operative Societies and Competent Authority is directed to decide the application filed by the Respondent No.1 to implead the original owners either separately or along with the main application on or before 09/08/2017.

C] The main application to be decided thereafter latest by 30/09/2017. Needless to state that the contentions of the parties including that of the original owners as also the grounds that would be urged on behalf of the Petitioner are kept open for being urged before the District Deputy Registrar of Co-operative Societies and Competent Authority.

D] The above Writ Petition stands withdrawn.

[SMT. SADHANA S JADHAV, J]

[R.M.SAVANT, J]