

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD***

923 WRIT PETITION NO. 11949 OF 2018

Bora Family Turst,
Through its Trustee & Attorney holder ... Petitioner

Versus

The State of Maharashtra & Anr. ... Respondents

...

Mr. V.P. Latange, Advocate for Petitioner
Mr. S.W. Munde, AGP for Respondents/State

...

Coram : N.M. Jamdar, J.

Date : 28 November 2018

Oral Order :

1 By this petition, the petitioner has challenged the order of the Competent Authority dated 4 May 2017. The Competent Authority has directed to the petitioner to execute a conveyance as per the provisions of Section 11(3) of the Maharashtra Ownership of Flats Apartment Act, 1970 (For short “MOFA Act”).

2 The sole contention advanced by the learned counsel for the petitioner is that the petitioner has executed a deed on 24 April 1995 and in view of this deed, a deemed conveyance should not have been executed in favour of the respondent-society. According to the learned

counsel for the petitioner, at the most the society could have been registered but not at all the rights could be transferred. The deed of 1995 is placed on record. In the context of the observations of Competent Authority that the deed of 1995 does not contain the recitals, I have gone through the said deed. The deed of 1995 does not contain recitals that whenever agreement is executed in favour of the purchasers, that the land and building is also handed over. The Competent Authority, therefore, did not find that the deed of 1995 attributes the necessary and it cannot be assailed as nothing is pointed out on the contrary. Therefore, the Competent Authority has rightly found that the petitioner had not taken steps as envisaged under MOFA. Deed has also not been registered. Since the petitioner did not fulfill the requirements, the authority has chosen to exercise its power under Section 11(2) to direct the petitioner to execute a deemed conveyance. Therefore, no error in the order passed by the Competent Authority in directing the petitioner to execute the deemed conveyance and to execute the conveyance. The consequences of this conveyance as in law would therefore follow. In these circumstances, there is no error in the impugned order.

3 The Writ Petition is, accordingly, rejected.

N.M. Jamdar, J.