

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

WRIT PETITION NO.2039 OF 2015

Laxmibai Baurao Darekar

.. Petitioner

Vs.

Ganpat Niwas CHS Ltd. & Ors.

.. Respondents

Mr.V.S. Kapase for the petitioner.

Mr.Ajay A.Samant for the respondent no.1.

Mr.S.D. Rayrikar, AGP for the respondent no.4-State.

CORAM : R.D. DHANUKA, J.

DATE : 15th June 2018

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 21st November 2014 passed by the District Deputy Registrar, Co-operative Societies thereby passing an order of deemed conveyance in favour of the respondent no.1 society.

2. Learned counsel for the respondent no.1 invited my attention to the order dated 6th January 2016 passed by the Division Bench of this Court in Writ Petition No.1656 of 2015 filed by the respondent no.2 herein against the State of Maharashtra and others challenging the same impugned order.

3. By the said order, Division Bench of this Court dismissed the said writ petition holding that the said impugned order would not conclude any issue, particularly regarding the right, title and interest of the petitioner in any immovable property. If the deed of conveyance is

granted in respect of any property to which the respondent no.1 society was not entitled to, then the petitioner is not prevented in law from bringing appropriate proceedings including a suit to establish and prove its independent right, title and interest to claim a declaration that any act of the second respondent and the order passed and impugned in the petition would not bind it. This Court dismissed the said writ petition keeping open such controversy and all contentions therein of all parties.

4. The petitioner in this petition also claims certain rights under the lease deed with the respondent no.2 herein. The principles laid down by this Court in the said order and judgment dated 6th January 2016 in Writ Petition no.1656 of 2015 would apply to the facts of this case also. In my view, if the petitioner claims any right, title and interest in the property in question which was the subject matter of the order of deemed conveyance in favour of the respondent no.1, the said order would not conclude any issue, regarding right, title and interest in respect of the suit property. The said issue can be agitated before the civil Court by the petitioner. I am thus not inclined to interfere with the impugned order dated 21st November 2014 passed by the District Deputy Registrar, Co-operative Societies keeping open the right of the petitioner to file a civil suit for adjudication of the title of the property in question. Writ petition is dismissed with aforesaid clarification. No order as to costs.

R.D. DHANUKA, J.