

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

WRIT PETITION NO.4250 OF 2014

Dilip Manohar Pathare & Ors. .. Petitioners
Vs.
Lovely Cozy CHS Ltd. & Ors. .. Respondents

Mr.Chandrakant Deogirikar for the petitioners.
Ms.Geeta P. Sonawane, AGP for the respondent nos.1 & 3.
Mr.P.A. Narayanan for the respondent no.2.

***CORAM : R.D. DHANUKA, J.
DATE : 4th June 2018***

P.C.:

. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 24th June 2013 passed by the competent authority under Section 11 of the Maharashtra Ownership Flats Act, 1963 (MOFA) thereby passing an order of deemed conveyance in favour of the respondent no.1 society. The petitioners claim certain right, title and interest in respect of the property in question which was the subject matter of the application for deemed conveyance filed by the respondent no.1.

2. In catena of the decisions, this Court took a view that the authority cannot decide the issue of title of the property under Section 11 of the MOFA which are the subject matter of the application in respect of the deemed conveyance. There is serious dispute about the title of the property in question of the petitioners.

3. In my view, the petitioner will have to thus file a civil suit in respect of adjudication of the title of the property in question. It is made clear that the authority has no jurisdiction to decide the issue of title of the property under Section 11 of the MOFA. The observations made in the impugned order thus will not come in the way of the petitioners if any civil suit for adjudication of the title is filed by the petitioners.

4. I am thus not inclined to interfere with the impugned order in this petition. If any civil suit filed by the petitioners for adjudication of the title of the property in question, the said civil suit shall be decided independently on its own merits and without being influenced by the observations made by the competent authority in the impugned order.

5. Ad-interim relief granted by this Court on 12th March 2015 in this petition to continue for a period of eight weeks from today. If the respondent no.1 has committed a breach of the order passed by this Court on 12th March 2015, the petitioner would be at liberty to file appropriate proceedings alleging the breach and for appropriate action against the respondent no.1.

6. Writ petition is disposed of in aforesaid terms. No order as to costs.

R.D. DHANUKA, J.