

Anand

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

WRIT PETITION NO. 6630 OF 2018

Shiv Dham Co-operative Housing Society .Petitioners
through Chairman / Secretary

Vs.

The District Deputy Registrar, Co-operative .Respondents
Societies, Mumbai (4) & ors.

Mr. A. K. Patil, Advocate, for the Petitioners
Ms P. J. Gavhane, AGP, for the Respondent Nos. 1 & 22 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 03.10.2018

P.C.

. Heard learned counsel for the Petitioner and the
learned AGP for the Respondent – State.

2. At the outset, learned AGP submitted that the
Petitioners' Application seeking deemed conveyance has been
rejected not on merits but as the Petitioners had failed to give a
clear description of the property and for not filing supporting
documents alongwith the Application. She submits that it is
always open for the Petitioners to file an appropriate Application

giving proper description of the property alongwith supporting documents again under Section 5A of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963 (hereinafter referred to as 'MOFA'). In view of the preliminary objection raised by the learned AGP, learned counsel for the Petitioners seeks leave to withdraw the Petition with liberty to file an appropriate Application giving proper description of the property alongwith supporting documents before the appropriate Authority.

3. Since the order dated 05.10.2015 passed by the Competent Authority under Section 5A of the MOFA Act is not on merits but only as the Petitioners had failed to give clear description of the property & had not filed supporting documents, no interference is warranted in the impugned order. Needless to state, that in the event, the Petitioners file a fresh Application, giving correct description of the property alongwith supporting documents, the said Application shall be considered by the Competent Authority on its own merits in accordance with law.

4. Accordingly, the Petition is disposed off as withdrawn with liberty as prayed.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)