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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1313 OF 2016

Crystal Garden Estate CHS Ltd. ...Petitioner
V/s.
M/s.Santa Cruz Contractors & Builders Pvt. Ltd. & Ors....Respondents

Mr.Kishor Patil for the Petitioner.

Mr.H.S.S. Murthi i/b Mr.Abhishek Patil for the Respondent No.1.

Mr.S.D. Rayrikar, A.G.P. for the State – Respondent Nos.3 and 4.

CORAM : R.D. DHANUKA, J.
DATE : 6TH AUGUST, 2018.

P.C. :-

1. The matter was argued at great length by both the parties.
The matter is placed on board for direction today.

2. Mr.Patil, learned counsel appearing for the petitioner on instructions states that without prejudice to the rights and contentions of the petitioner society, the petitioner will implement the order passed by the Competent Authority insofar as the order of deemed conveyance for the area mentioned in the order is concerned and would file a civil suit in respect of the remaining area.

3. It is not in dispute that the developer has not challenged the order of the Competent Authority granting deemed conveyance by an order dated 27th May, 2014 in favour of the petitioner.

4. The petitioner is permitted to execute the order passed by the Competent Authority on 27th May, 2014 without prejudice to the rights and contentions of the petitioner to file a civil suit in respect of the remaining area. The suit shall be filed within four weeks from today. If any such suit is filed, the Civil Court shall decide such suit on its own merit. All contentions in the civil suit for adjudication of title in respect of the additional area are kept open. This Court in catena of decisions has held that the Competent Authority does not decide the issue of title in the application filed under section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sales, Management and Transfer) Act, 1963.

5. The writ petition is accordingly disposed of in aforesaid terms. There shall be no order as to costs.

6. All parties to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)