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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3843 OF 2014

Athashree Builders & Promoters, through
its partners Santosh P. Pokale ...Petitioner
V/s.
Santosh Sahakari Grah Ranchana Maryadit & Ors. ...Respondents

Mr.Sugandh Desmukh for the Petitioner.
Ms.Gauri Godse for the Respondent No.1.
Mr.Rajdeep Khadaplar for the Respondent No.6.
Mr.S.D. Rayrikar, A.G.P. for the State – Respondent.

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

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 18th November, 2013 and also the certificate issued by the Competent Authority under section 11(4) of the Maharashtra Ownership Flats (Regulation of Promotion of Construction Sell, Management, and Transfer) Act, 1963 (for short “the said Act”).

2. It is the case of the respondent no.1 society that the order of deemed conveyance passed by the Competent Authority is already implemented prior to the date of this Court passing an order of *status-quo* and the name of the respondent no.1 has been already entered in the revenue records.

3. A perusal of the writ petition indicates that there appears to

be a dispute in respect of the balance FSI, if any, to the plot. The order of deemed conveyance is challenged on that ground by the petitioner.

4. This Court in case of **Angeline Randolph Pereira & Ors. vs. Suyog Industrial Estate Premises Co-operative Society Limited & Ors., 2018 SCC OnLine Bom.687** has held that the Competent Authority does not decide the title in respect of the property while deciding the application under section 11 of the said Act.

5. Insofar as the dispute in respect of the balance FSI, which is proposed to be raised by the petitioner is concerned, in my view, the remedy of the petitioner would be to file a substantiate suit for adjudication of title as well as for additional FSI, if any. If any such suit is filed by the petitioner for adjudication of title as well as for additional FSI, the same shall be decided by the Civil Court independently without being influenced of the fact that the order of deemed conveyance in question is passed by the Competent Authority.

6. The writ petition is disposed of with the aforesaid clarification. There shall be no order as to costs.

(R.D. DHANUKA, J.)