

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 8127 OF 2015****Amit Patil & Anr.****..... Petitioners****VERSUS****Nalin Apartments Co-operative
Housing Society Ltd. & Anr.****..... Respondents**

Mr.Ajay Sampat for the Petitioners.

Mr.G.N.Salunke, i/b. Mr.Pandurang G.Parkar for the Respondents.

CORAM : R.D. DHANUKA, J.**DATE : 27th JUNE, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 17th January, 2015 and also certificate of deemed conveyance dated 17th January,2015 issued by the District Deputy Registrar, Co-operative Societies (3) Mumbai on Application bearing No.64 by the respondent no.1 under section 11 of the Maharashtra Ownership Flats Act, 1963.

2. The petitioner has impugned the said order dated 17th January, 2015 and also certificate of deemed conveyance dated 17th January,2015 merely on the ground that the order of deemed conveyance is passed in favour of the petitioner for larger area then the area in their possession. On the other hand it is the case of the respondent no.1 society that the order of deemed conveyance is passed in respect of the area lesser area than in their possession.

3. In *catena* of decisions delivered by this court, it has been held that the competent authority while dealing with an application for deemed conveyance does not decide the issue of title in respect of the society. If according to the petitioner the order of deemed conveyance is granted in respect of the larger area then what the society was entitled to under the lease agreement, the remedy of the petitioner would be to file a civil suit. I am thus not inclined to interfere with the impugned order passed by the competent authority and also certificate under section 11 of the Maharashtra Ownership Flats Act, 1963 issued by the competent authority. If any such suit is filed by the petitioner seeking adjudication of the title in respect of the property in question, the said suit can be decided on its own merits without being influenced by the observations made in the impugned order.

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

5. All contentions of both parties on the issue of title are kept open.

[R.D. DHANUKA, J.]