

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1250 OF 2018
IN
WRIT PETITION NO.8353 OF 2017

Sai Kurlawala Co-op. Hsg. Soc. (Proposed) ...Applicants

IN THE MATTER BETWEEN :

M/s.Sai Corporation ...Petitioner

V/s.

State of Maharashtra & Ors. ...Respondents

Dr.Veerendra Tulzapurkar, Senior Counsel with Mr.Sandeep Bhimekar
I/b DSR Legal for the Applicants.

Mr.Zal Andhyarujina with Mr.Deepak Shukla I/b Vinod Mistry & Co. for
the Petitioner.

Mr.S.H. Kankal, A.G.P. for the State – Respondent Nos.1 and 2.

Mr.Ashok Kumar Dubey for the Respondent No.3.

CORAM : R.D. DHANUKA, J.

DATE : 9TH AUGUST, 2018.

P.C. :-

1. By this civil application, the applicants who are not parties to the proceedings have applied for impleadment and for various other reliefs on the ground that various plots of the applicants bearing CTS Nos.77B and 77B/1 to 32 admeasuring 1247.3 sq. ft. at Eagle Wadi,Tanaji Chowk, Near Mill Road, Kurla (W), Mumbai – 400 056 could not be part of the order of deemed conveyance in view of the

fact that the respondent no.3 had neither applied for any order of deemed conveyance in respect of the aforesaid plots nor the same could be applied.

2. Dr.Tulzapurkar, learned senior counsel appearing for the applicants invited my attention to paragraph 6 of the impugned order of the deemed conveyance and would submit that in the description of the property, the society has not only included the plots in respect of which an order of deemed conveyance was applied by the society i.e. plot bearing CTS Nos.77A/1 – 43.7 sq. mtrs., 77A – 2094.1 sq. mtrs. And 77A/2 – 329.3 sq. mtrs. which were also the plots owned by the applicants.

3. Learned counsel appearing for the respondent no.3 (original applicant to the application for deemed conveyance) states that his clients had never applied for deemed conveyance in respect of the plots claimed by the present applicants but has been granted deemed conveyance in respect of CTS Nos.77B and 77B/1 to 32 bearing survey no.320. In support of this submission, learned counsel invited my attention to the deemed conveyance registration certificate dated 10th January, 2017. He submits that the respondent no.3 does not claim any right, title or interest of any nature whatsoever in respect of the lands which are claimed by the applicants i.e. CTS Nos.77B and 77B/1 to 32 admeasuring 1247.3 sq. ft.. The statement

is accepted.

4. In view of the statement made by the learned senior counsel for the applicants and the learned counsel for the respondent no.3 (original applicant to the application for deemed conveyance), the order of deemed conveyance dated 10th January, 2017 as well as deemed conveyance registration certificate of the same date will not affect the rights of the applicants insofar as the land bearing CTS Nos.77B and 77B/1 to 32 which are claimed by the applicants.

5. Learned counsel for the respondent no.3 states that though a Deed of Conveyance is already executed in favour of the respondent no.3 so as to implement the order dated 10th January, 2017 passed by the Competent Authority and also the deemed conveyance registration certificate of the same date, the said Deed of Conveyance executed on 21st June, 2017 would not affect the rights of the applicants and the respondent no.3 would not claim any right, title or interest of any nature whatsoever in respect of those plots claimed by the applicants based on the order dated 10th January, 2017, based on the deemed conveyance registration certificate and also based on the execution of deemed conveyance dated 21st June, 2017. The statement is accepted.

6. The applicants are permitted to file a copy of this order with the authority who has registered the Deed of Conveyance in

favour of the respondent no.3 for placing a copy of this order on record in respect of the property in respect of which the Deed of Conveyance is executed. The Deed of Conveyance to be read with this order.

7. The civil application is disposed of in aforesaid terms. There shall be no order as to costs.

8. All the parties including the concerned authorities to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)