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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7878 OF 2018

M/s.Vastu Vikas Mandal	...Petitioner
V/s.	
The Competent Authority / District Registrar, Co-operative Societies, Thane & Ors.	...Respondents

Mr.Girish Godbole I/b Mr.Parag M.Tilak for the Petitioner.

Mr.S.D. Rayrikar, A.G.P. for the State – Respondent No.1.

Mr.R.S. Apte, Senior Counsel I/b Mr.Vaibhav Patankar for the
Respondent No.2.

Mr.P.M. Arjunwadkar for the Respondent No.6.

CORAM : R.D. DHANUKA, J.
DATE : 14TH AUGUST, 2018.

P.C. :-

1. By this petition, the petitioner has impugned the order dated 22nd November, 2017 passed by the Competent Authority allowing the application for deemed conveyance filed by the respondent no.2 society.

2. The impugned order is challenged on the ground that (i) there are several garage owners on the same plot, who were not impleaded as parties to the application for deemed conveyance though it was bought to the notice of the respondent no.2 as well as the Competent Authority, (ii) the certificate issued by the Architect

which has been relied upon by the Competent Authority certifying the area of 9430.98 sq. mtrs. was seriously disputed by the petitioner, (iii) there is one more society having a separate building on the said plot who was impleaded as the respondent no.5 in the application filed by the respondent no.2 society before the Competent Authority and thus the application for deemed conveyance could not have been granted only in favour of the petitioner.

3. Learned counsel appearing for the respondent no.6 society (who was the respondent no.5 in the application for deemed conveyance) submits that on 13th November, 2017, an application was made by his client before the Competent Authority for rendering an opportunity of hearing. He submits that the said application has not been decided by the Competent Authority and thus the impugned order passed by the Competent Authority is in violation of the principles of natural justice and thus deserves to be set aside.

4. On the other hand, it is the case of the respondent no.2 that the respondent no.2 society was registered on 30th September, 1980. The construction of the building of the applicant was completed on 31st January, 1981. The said applicant therefore, requested from time to time to execute the deed of conveyance. The occupation certificate was granted by the Municipal Corporation between 9th July, 1984 to 7th November, 1989. Since the developer as well as the

owners did not execute a Deed of Conveyance in favour of the respondent no.2 society, the respondent no.2 society applied for deemed conveyance on 26th December, 2016.

5. A perusal of the impugned order passed by the Competent Authority indicates that the Competent Authority has considered all the documents produced by both the parties. Insofar as the area in question is concerned, it is not in dispute that the total area of the plot was 11555.40 sq. mtrs. whereas the Competent Authority has passed an order of deemed conveyance in favour of the respondent no.2 society in respect of 9430.98 sq. mtrs. based on the Architect's certificate as well as considering the above documents on record. The said Architect's certificate was not disputed by any of the contesting parties.

6. Mr.Godbole, learned counsel appearing for the petitioner does not dispute that a draft deed of conveyance for the entire plot was forwarded to the respondent no.2 society by his client for approval and execution. The grievance of the petitioner is that the Competent Authority could not have granted an order of deemed conveyance for the area 9430.98 sq. mtrs. on the ground that the other occupants would be affected.

7. Insofar as the respondent no.6 society is concerned,the said party was already before the Competent Authority. It is not

disputed that the notices of hearing were served upon the respondent no.6. A perusal of the application dated 13th November, 2017 tendered by Mr.Arjunwadkar, the respondent no.6 indicates that hearing was already closed by the learned Competent Authority on 2nd November, 2017, whereas the said application was made on 13th November, 2017. Though various opportunities were granted by the Competent Authority from time to time to the respondent no.6, the respondent no.6 did not bother to raise any objection to the application filed by the respondent no.2 society for deemed conveyance. The respondent no.6 has also not challenged the said impugned order of deemed conveyance by filing a separate writ petition. In my view, the respondent no.6 thus cannot make a grievance that the impugned order passed by the Competent Authority is in violation of the principle of natural justice.

8. Insofar as the submission of Mr.Godbole, learned counsel for the petitioner that there were other garage owners on the plot and they were required to be heard by the Competent Authority is concerned, it is not in dispute that no application was made by those garage owners for impleadment in the said application for deemed conveyance in order to oppose the said application of deemed conveyance before this Court. The garage owners also did not challenge the order of deemed conveyance.

9. I do not find any infirmity in the impugned order passed by the Competent Authority. The petition is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

(R.D. DHANUKA, J.)