

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 12239 OF 2017****Mrs.Gracy David Noronha****..... Petitioner****VERSUS****Glory Apartment Co-operative
Housing Society Limited & Ors.****..... Respondents**

Mr.Rajnikant Salvi for the Petitioner.

Dr.Birendra Saraf, a/w.Mr.Sriraj Menon, i/b. M/s.MJ Juris for the Respondent no.1.

CORAM : R.D. DHANUKA, J.**DATE : 2nd JULY, 2018****P.C.**

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 23rd August, 2017 passed by the learned District Deputy Registrar, Co-operative Societies Mumbai City (4) who is the competent authority under section 5 of the Maharashtra Ownership Flats Act, 1903 granting order of deemed conveyance in favour of the respondent no.1 Society.

2. The petitioner does not dispute that the respondent no.1 was entitled to the deemed conveyance in respect of the 432.07 sq.mtrs. in accordance with the agreement entered into between the flat purchasers and the developer. The only grievance of the petitioner is that the another building on the same plot is being constructed by the developer and if the respondent no.1 applies for sub-division of the plot, it would affect the rights of the developer as well as the petitioner herein.

3. It is not in dispute that the order of the deemed conveyance is granted in respect of the land 432.07 sq.mtrs. bearing CTS No.1288, Survey No.158, Hissa No.3(Part) described in paragraph (2) of the impugned order.

4. In my view, as and when the respondent no.1 society applies for sub-division of the plot, the respondent no.1 shall issue notice to the petitioner. The concerned authority who will consider the application for sub-division of the respondent no.1 as and when made, shall pass an appropriate order after considering the objections, if any, of the petitioner as well as the developer. If any such application for sub-division is made, the same shall be decided by the concerned authority on its own merits.

5. In view of the aforesaid directions, I am not inclined to interfere with the impugned order passed by the competent authority on 23rd August, 2017.

6. Writ petition is dismissed with aforesaid clarifications. No order as to costs.

[R.D. DHANUKA, J.]