

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.1415 OF 2018
IN
WRIT PETITION NO.3064 OF 2016**

Chandrika V. Mehta & Ors. .. Applicants

In the matter between

Madhusudan Jaswantlal Dani & Ors. .. Petitioners

Vs.

State of Maharashtra & Ors. .. Respondents

Mr.Sameer Walimbe for the applicants.

Ms.Neeta Jain a/w Ms.Aanal Desai i/by M/s.Lex Services for the petitioners.

Mr.S.D.Rayrikar, AGP for the State.

Mr.Advait Sethna a/w Ms.Ruju R. Thakkar & Mr.Naved Mulla for the respondent no.4 society.

CORAM : R.D. DHANUKA, J.

DATE : 2nd August 2018

P.C.:

. By this civil application, the applicants seeks impleadment in the Writ Petition No.3064 of 2016 filed by the original owners challenging the impugned order passed by the competent authority under Section 11 of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 .

2. By an order dated 12th March 2018 this Court has admitted the said writ petition and has granted interim relief in terms of prayer clause (c).

3. This Court while granting the interim relief on 12th March 2018 had made it clear that the respondent no.4 society shall not take

any steps based on the impugned order dated 24th November 2015 though the conveyance dated 21st December 2015 was already executed and certificates in that regard had been granted in favour of the society during the pendency of this petition.

4. The applicants who claim to be the tenants in respect of the said building have filed this civil application on the ground that the respondent no.5 developer had offered them permanent alternate accommodation in the part of new additional building which the respondent no.5 failed to comply with. Another grievance of the applicants is that landlord has not been recovering the rent from the applicants. The applicants for impleadment is vehemently opposed by the respondents on the ground that the remedy, if any, of the applicants would be to file appropriate independent proceeding and not by seeking impleadment in this writ petition.

5. It is not in dispute that the original petitioners have impugned the order of the competent authority granting order of deemed conveyance in favour of the respondent no.4 society. The applicants claim to be the tenants in respect of the some of the structures and had some grievance against the developer. The grievance of the applicants cannot be adjudicated upon in this writ petition. In my view, the applicants are neither necessary nor proper parties to this civil application. Civil application is dismissed. It is made clear that the applicants would be entitled to adopt such appropriate proceeding as permissible in law. No order as to costs.

R.D. DHANUKA, J.