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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12049 OF 2016

Ashley J. D'Souza & Ors. ...Petitioners
V/s.
District Deputy Registrar, Co-op. Soc. Mumbai & Ors. ...Respondents

Mr.Jitendra Damani for the Petitioners.

Mr.S.D. Rayrikar, A.G.P. for the State – Respondent Nos.1 to 3.

Mr.P.C. Thomas for the Respondent No.4.

Mr.Aniket Abhyankar I/b Ms.Anjali Helekar and Mr.S.M. Abhyankar for the Respondent Nos.9 and 10.

CORAM : R.D. DHANUKA, J.
DATE : 6TH AUGUST, 2018.

P.C. :-

1. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 31st March, 2016 passed by the Competent Authority allowing the application for deemed conveyance filed by the respondent no.4 society.

2. Hearing was closed before the Competent Authority on 27th March, 2015. The petitioners made an application for intervention on 19th November, 2015. The impugned order was passed on 31st March, 2016.

3. It is the case of the petitioners that the petitioners are also

entitled to certain share in the property in respect of which the order of deemed conveyance is passed by the Competent Authority. On the other hand, it is the case of the society that the name of the present petitioners was not found in the property card and thus were not impleaded as parties to the application for deemed conveyance. However, the name of the original owners were also found in the property.

4. A perusal of the order indicates that the matter was adjourned from time to time by the Competent Authority. A public notice was also published in the Free Press Journal and Navshakti on 19th June, 2015. There was no objection received from the petitioners nor the petitioners appeared before the Authorities before proceedings were closed for orders on 27th March, 2015.

5. In catena of judgments, this Court has taken a view that the authority does not decide the issue of title in the proceedings filed under section 11 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale Management and Transfer) Act, 1963, (for short the “said MOFA Act”). If the petitioners claim any right, title or interest in the property in question, the remedy of the petitioners would be to file a civil suit.

6. I am thus not inclined to interfere with the impugned order passed by the Competent Authority. If any such civil suit is filed by the

petitioners for adjudication of title in respect of the property in question, the said suit can be decided on its own merits.

7. The writ petition is dismissed with aforesaid clarification. There shall be no order as to costs.

(R.D. DHANUKA, J.)